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ABSTRACT

This report provides an overview of school desegregation efforts in Boston, Massachusetts. Background information on the city and its school system is provided. Included are demographic statistics about the Boston area, a description of the major components of the educational structure at the local and State level, a review of the history of school desegregation in the city, and a summary of key findings in the 1974 Federal district court decision regarding racial imbalance in the Boston school system. The desegregation plan ordered by the district court is described and remaining problem areas are outlined. Also discussed are the authority and responsibility of various Federal agencies in school desegregation cases and the activities of these agencies in Boston. In addition, the structure of State and local enforcement agencies are examined and their involvement in desegregation-related assignments since September 1974 is described. Appended are charts showing the institutional hierarchy of Boston's educational and police systems, as well as a chronological outline of legal developments under Phase I of the city's school desegregation plan. (EB)

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SCHOOL DESEGREGATION IN BOSTON

A staff report prepared for the
hearing of the U.S. Commission
on Civil Rights in Boston,
Massachusetts, June 1975.

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Preface

This staff report is the product of recent research by Commission staff. Its purpose is to provide an introduction to the complex and protracted record of school desegregation efforts in Boston.

The first part of the report provides basic background information on Boston and the school system. This section includes demographic statistics about the Boston area, identifies the major components of the educational structure at the State level and in Boston, briefly traces the history of school desegregation in Boston, and summarizes the key findings in the June 1974 Federal district court decision in the case. The second part of the report details the provisions of the desegregation plan ordered by the district court to be implemented in Boston, and notes remaining problem areas. The third part states the authority and responsibility of various Federal agencies in school desegregation cases, and summarizes related activities of those agencies in Boston.

The last part of the report examines the structure of State and local law enforcement agencies and briefly describes their involvement in desegregation-related assignments since September 1974.

Severe time constraints have limited the scope and depth of coverage of subjects covered in this report. A more thorough and conclusive study of school desegregation in Boston will be included in a final report to be issued at a later date following the hearing.

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I. BACKGROUND

Summary

Boston resembles other large cities in terms of its declining total population but growing minority community; its racially separate neighborhoods and schools (most blacks reside in Roxbury and parts of Dorchester); and its large, growing, and more affluent suburbs. On the other hand, Boston differs in comparison to other large cities in terms of its large foreign-born and ethnic population, predominantly Irish and Italian, but including a growing Spanish speaking minority; its moderate sized black community (approximately 17 percent); its physical compactness and high population density; its relatively low median income; and its low rate of home ownership.

The city of Boston has experienced strong migration of white families to the suburbs since 1950, long before school desegregation became an issue. This pattern is true even for sections of the city that have never had any significant influx of black residents.

Boston has a large parochial and private school enrollment (about 35,000) as well as a large public school enrollment (93,000). The public schools, in addition to their traditional pattern of racial segregation, feature a low pupil-staff ratio; high dropout rates;

low reading test achievment scores; and a low percentage of black teachers and administrators in comparison to the percentages of black school enrollment and black residents. The public schools have not operated as a pure neighborhood school system; about one-third of public school pupils were bused in the early 1970's for a variety of purposes, unrelated to school desegregation.

Responsibility for educational policy in Boston is vested in the Boston School Committee. The committee has virtually total control over all school matters and has frequently involved itself in administrative operations. Efforts to abolish the committee and improve the efficiency of the Boston School Department, which administers committee policy, have failed.

The State board of education has ultimate responsibility for local school committee compliance with all State laws concerning public education. The State board can refer cases of noncompliance to the State attorney general and can also withhold Federal and State funds from local school committees.

Committee organizations involved in education in Boston include the Home and School Association (Boston's equivalent of a PTA) and the biracial Citywide Education Coalition. A leading antibusing organization is Restore Our Alienated Rights (ROAR), and the leading pro-desegregation organization is the National Association for the Advancement of Colored People (NAACP). Other community groups several years ago organized the METCO and Operation Exodus programs, which provide for the voluntary busing of black pupils to predominantly white city and suburban schools.

The history of school desegregation in Boston resembles that of other cities in terms of the long period of time (10 years) that elapsed between the first strong pressures for desegregation and the implementation of a comprehensive desegregation plan; a record of opposition, resistance, and delay in desegregation by educational officials; a legal defense based on the de facto, or evolutionary, segregation argument; and ultimate rejection of that defense by the courts, in light of evidence of deliberate or de jure segregatory policies.

Boston is unique, however, in that its school committee was initially charged with responding to State, not Federal, desegregation law. The Federal court suit, Morgan v. Hennigan, which in June 1974 decided the case, was filed only after the State board of education and the Massachusetts Commission Against Discrimination had failed to compel committee compliance with the State's Racial Imbalance Act of 1965.

The Federal district court ordered the committee to implement in September 1974 a limited desegregation plan prepared for the State board as Phase I of a total desegregation effort. That plan dealt only with correcting student racial imbalance in schools with a nonwhite enrollment of 50 percent or more.

A. DEMOGRAPHIC PROFILE

Boston and Comparisons With the 29 Other Largest Cities:

Total Population and Land Area

Boston is a city of 641,071 persons.[1] Its population declined from 697,197 to 641,071 between 1960 and 1970, a decline of 8.1 percent.[2] Between 1950 and 1960 it shrank by 13 percent.[3]

It is not clear whether the population of Boston has increased or decreased since 1970. Censuses conducted annually by the Boston Police Department of residents who are 17 years old or older show moderate increases in the number of such persons, but some of these increases probably are due to improved procedures for locating and counting residents. In addition, school enrollments and birth statistics suggest some offsetting decline in the population under the age of 17. Informed guesses provided Commission staff about Boston's current population ranged from a low of about 625,000[4] to a high of about 660,000.[5]

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[1] U.S., Department of Commerce, Bureau of Census, Characteristics of the Population, 1970 Census of Population and Housing, Vol. 1, p. 24. (Cited hereafter as 1970 Census of Population.) Unless otherwise indicated, the data given in this section are from the 1970 census. This is because more current data of high quality are unavailable for many of the characteristics discussed.

[2] Ibid., p. 24.

[3] Ibid., p. 14.

[4] Telephone interview with Margaret C. O'Brien, former demographer with the Boston Redevelopment Authority, May 27, 1975.

[5] Telephone interview with Alexander Ganz, Research Director, Boston Redevelopment Authority, May 27, 1975

Race, Ethnicity, and Language Background of the Population

Some 16.3 percent of Boston's population are black, and another 1.9 percent are of other nonwhite racial groups (Asian American, Native American, etc.), according to the 1970 census.[6] These percentages probably underrepresent the actual nonwhite percentage of the city's population in 1970 because the 1970 census undercounted an estimated 7.7 percent of the black population but only 1.9 percent of the white population.[7]

Boston's black population increased substantially between 1960 and 1970. Their numbers rose from 63,165 to 104,707.[8] This was a 65.8 percent increase over a period of time when Boston's total population declined by 8.1 percent.[9] Most of this increase appears to have been the result of black immigration during the first half of the decade.[10]

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[6] 1970 Census of Population, pp. 43 and 375.

[7] Jacob Siegel, Population Division, U.S. Bureau of the Census, "Estimates of Coverage of the Population by Sex, Race, and Age in the 1970 Census" (paper presented at the annual meeting of the Population Association of America, New Orleans, La., Apr. 26, 1973).

[8] U.S. Department of Commerce, Bureau of the Census, Characteristics of the Population, 1960 Census of Population and Housing, Vol.1, p. 80; 1970 Census of Population, p. 62.

[9] 1970 Census of Population, p. 14.

[10] The facts suggest that most of this increase could not have been caused by natural increase (the net of births minus deaths) between 1960 and 1970, or by substantial net immigration of blacks after 1965. The latter is precluded by the fact that almost identical percentages of blacks and whites in Boston in 1970 had resided within the same county in 1965 (76.8 and 75.9 percent, respectively). 1970 Census of Population, pp. 285.

The city covers an area of only 46 square miles, with an average population density of 13,936 persons per square mile.[11/] The shape of the city is irregular; but it is roughly an 11- by 4-mile rectangle, with a 3-mile by 1 1/2-mile land strip to the northwest connected by a half-mile long, narrow land corridor. The farthest distance between any two points in Boston is about 13 miles.[12/] (See figure 1.)

Boston is the 16th largest city in the Nation in terms of its population. Houston, Baltimore, Cleveland, Indianapolis, Milwaukee, San Diego, and San Antonio are among the cities larger than Boston.[13/] The Boston metropolitan area, however, ranks eighth in total population among the Nation's metropolitan areas.[14/] Of the 30 cities in the country with the largest populations in 1970, only 6 had declined in population by a larger percentage than Boston had since 1960. Boston has less land area than all but 2 of the 30 cities. It is the fifth most densely populated.[15/]

[11/] U.S., Department of Commerce, Bureau of the Census, County and City Databook-1972, p. 702.

[12/] Staff measurements from the Boston Redevelopment Authority Planning Districts Map.

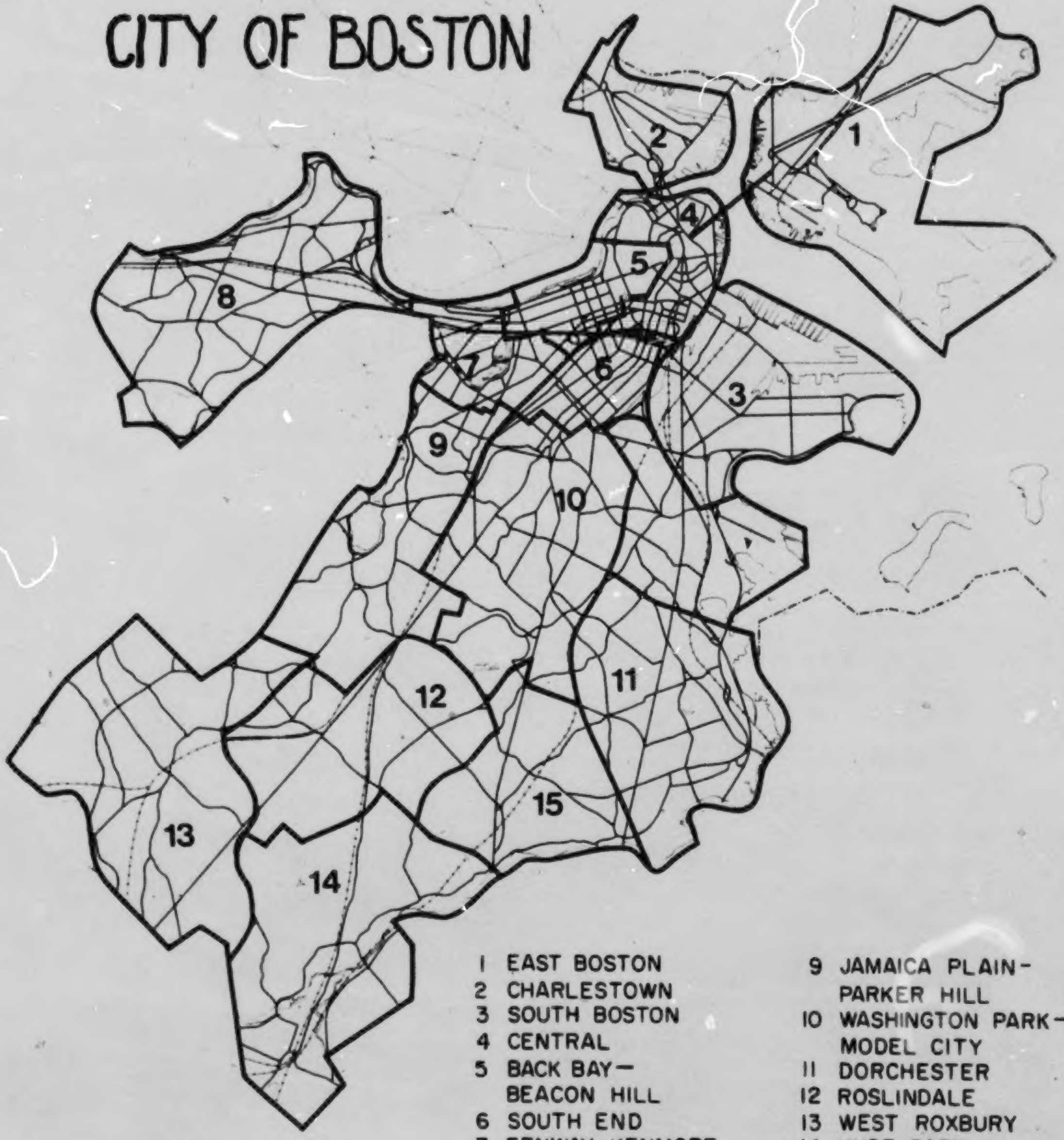
[13/] County and City Databook-1972, pp. 630-797.

[14/] Ibid., p. xxix.

[15/] Ibid., pp. 630-797.

FIGURE I

CITY OF BOSTON



1	EAST BOSTON	9	JAMAICA PLAIN- PARKER HILL
2	CHARLESTOWN	10	WASHINGTON PARK- MODEL CITY
3	SOUTH BOSTON	11	DORCHESTER
4	CENTRAL	12	ROSLINDALE
5	BACK BAY- BEACON HILL	13	WEST ROXBURY
6	SOUTH END	14	HYDE PARK
7	FENWAY-KENMORE	15	MATTAPAN-FRANKLIN
8	ALLSTON-BRIGHTON		

INDEX TO: PLANNING DISTRICTS

BOSTON REDEVELOPMENT AUTHORITY 1'=8000'
1973

The average family size of blacks is close to that of whites in Boston. The average number of children ever born to black women between the ages of 35 and 44 years who have ever been married is 3.50; the comparable figure for white women is 3.35 16/

More than a third of Boston's population is foreign-born or the offspring of at least one foreign-born parent. The major national origins of these people are shown below.

TABLE 1

Most Common National Origins of the Foreign-Born and Their First Generation of Offspring

National Origin	Foreign-Born	Offspring of at least one foreign-born parent
Italy	14,990	39,354
Ireland	12,362	29,985
Canada	10,772	25,561
Asia	6,745	5,764
Russia	6,012	10,776
Other	33,107	41,661

Source: 1970 Census of Population, p. 275

Some 16,987 persons were counted of Spanish speaking background in the 1970 census. 17/ This figure is also believed to represent an undercount. 18/

16/ 1970 Census of Population, pp. 305 and 375.

17/ Ibid., p. 275.

18/ U.S., Commission on Civil Rights, Counting the Forgotten (1974).

Of the 641,071 people in Boston, 144,941 report a mother tongue (the language spoken in a person's home when he or she was a child) other than English.[19] The most common non-English mother tongue is Italian (44,365 persons). The second most common is Spanish (15,303 persons), and the third is Yiddish (14,509 persons).

Twenty-three of the 30 largest cities have a higher percentage of nonwhite population than does Boston; all but one of the 6 that have a lower percentage of nonwhites are in the West, and these cities have a substantial percentage of Mexican Americans, who were usually classified as white in the 1970 census. In only 2 cities out of the 30, however, did the black population increase at a faster rate between 1960 and 1970 than in Boston (these were San Jose and Milwaukee). In addition, Boston ranks 13th in the percentage of its population who are identified as being of Spanish speaking background, and third in the percentage of its population who were foreign born or the offspring of at least one foreign-born parent (behind New York and San Francisco).[20]

Educational Attainment and Employment

Of all adults in Boston over the age of 25, 31.7 percent have completed less than 1 year of high school, and 53.5 percent have graduated from high school.[21] In comparison, blacks have a somewhat lower percentage of adults who have completed high school (45.1 percent), but they also have a smaller percentage of persons who have completed less than 1 year of high school (28.8 percent).[22]

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[19] 1970 Census of Population, p. 275.

[20] County and City Databook-1972. pp. 630-797.

[21] 1970 Census of Population, p. 295.

[22] Ibid., p. 375.

Boston ranks near the middle of the 30 cities with respect to the educational attainment of its adult population. Seventeen of the 30 cities have a higher percentage of adults over the age of 25 who have completed less than 5 years of schooling. Eleven of the 30 have a higher percentage of such adults who have completed at least high school, and 16 have a higher percentage who have completed college.[23]

Seventy-two percent of all males and 47.8 percent of females over the age of 16 are in the Boston labor force.[24] In 1970, virtually the same percentage of black adults and white adults were in the labor force. Blacks in the labor force, however, were about one and a half times more likely to be unemployed in 1970 than was the entire labor force (7.1 percent vs. 4.8 percent for males and 6.1 percent vs. 3.7 percent for females).[25]

More recent unemployment figures show that approximately 8.2 percent of the city's total labor force was unemployed in 1973, and 8.8 percent was unemployed in 1974. For each of the first 3 months of 1975 the rates were 11.2, 13.2, and 13.9 percent.[26]

The Massachusetts Division of Employment Security estimated that in 1974, about 8.1 percent of whites and 13.0 percent of blacks in Boston were unemployed.[27] In March 1975, an estimated 20.5 percent of Boston's black labor force participants were unemployed.[28]

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[23] County and City Databook-1972, pp. 630-797.

[24] Ibid., p. 315.

[25] Ibid., pp. 315 and 385.

[26] Robert Lewis, Senior Labor Market Economist, Massachusetts Division of Employment Security, telephone interview, May 29, 1975.

[27] These are rather crude estimates based on the assumption that the ratio of black to white unemployment, as reported in the 1970 census, has remained constant since then.

Blacks in Boston are less likely than the total labor force to be in professional, technical, managerial, and clerical occupations, and more likely to be in sales or service occupations. (See table 2.) Blacks also are less likely than the total labor force to be in the retail trade, education, and public administration sectors of the economy and are more likely to be in the manufacturing and personal services sectors. (See table 3.)

Boston has a larger percentage of its labor force holding sales and clerical jobs than all but 2 of the cities, but 14 of the cities have a smaller percentage of their labor force holding professional or technical jobs. Boston ranks 23rd in terms of the percentage of its labor force employed in manufacturing businesses.[29]

Income and Housing

The median family income of Boston's families in 1970 was $9,133.[30] Almost 22 percent of all families had annual incomes of less than $5,000; 34.4 percent had annual incomes between $5,000 and $10,000; and 25.7 percent had incomes between $10,000 and $15,000.[31] The respective percentages for black families were 38.3 percent, 36.6 percent, and 18.6 percent;[32] and for white families they were 18.5 percent, 34.0 percent, and 27.1 percent.[33]

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[28] Robert Lewis, Massachusetts Division of Employment Security, Manpower Information for Affirmative Action Programs-1975, p. 3.

[29] County and City Databook-1972, pp. 630-797.

[30] 1970 Census of Population, p. 355.

[31] Ibid., p. 355.

[32] Ibid., p. 405.

[33] Ibid., pp.355 and 405.

TABLE 2

Occupations of Total Labor Force and Black Labor Force in Boston

Occupation	Percent of Total Labor Force	Percent of Black Labor Force
Professional, technical, and managerial	22.5%	13.4%
Craftsmen and foremen	10.2	10.2
Operatives	13.8	21.9
Clerical	26.9	22.2
Sales	5.7	2.9
Services	16.8	23.9
Other	4.1	5.5

Source: 1970 Census of Population, pp. 325 and 395.

TABLE 3

Sectors of the Economy in Which the Total Labor Force and the Black Labor Force are Employed

	Percent of Total Labor Force	Percent of Black Labor Force
Manufacturing	17.5%	21.8%
Retail trade	15.1	11.7
Hospitals and other health services	10.1	10.2
Banking, insurance, real estate, and other finance	9.2	7.9
Schools, colleges, and other education	8.6	5.9
Public administration	7.3	5.3
Personal services	4.3	7.7
Other	27.9	29.5

Source: 1970 Census of Population, pp. 335, 405.

Although black families in Boston are disproportionately poor when compared to white families, low-income white families outnumber low-income black families in the city. In 1970, 12,168 white families and 7,430 black families were receiving public assistance.[34/] Twenty-two percent of all families in Boston have a female head of household, and more than half of these families (57 percent) have incomes below the low-income level.[35/]

Boston's residents have lower average income than those in most of the other major cities. Boston ranks 24th with respect to median white family income and 23rd in median black family income. Eighteen of the 30 cities have a lower percentage of very poor families (income under $5,000 per year) than does Boston, and 17 of the cities have a higher per capita income. [36/]

The vast majority of families residing in Boston do not own the homes they occupy. Only 27.2 percent of all Boston families own the homes they occupy; the corresponding figure for black families is 17.3 percent.[37/] The median rent for renter-occupied housing in 1970 was $126 per month. Some 5.1 percent of all housing units in the city are lacking at least some normal plumbing facilities, and 7.2 percent are

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[34/] 1970 Census of Population, pp.365 and 415.

[35/] County and City Databook-1972, pp. 705-706.

[36/] Ibid., pp. 630-797.

[37/] Ibid., p. 707.

overcrowded (with more than one person per room in the unit, not counting bathrooms). Housing units occupied by blacks are somewhat less likely to lack normal plumbing (only 3.9 percent), but are more likely to be overcrowded (11.5 percent). Almost 16 percent of all housing units lack a telephone.[38]

All but one of the 30 cities have a higher percentage of owner-occupied housing than does Boston, with New York City the single exception. All of the cities have a higher percentage of black-occupied units that are owner occupied. Eleven of the cities have a smaller percentage of overcrowded housing, and housing in six of the cities is less segregated.[39]

School Enrollment, Resources, and Effectiveness

In 1970, 27 percent of the 82,193 elementary school pupils in Boston and 30 percent of the 36,226 high school students were enrolled in private schools.[40] Only 1,418 black pupils were enrolled in private elementary schools, and only 470 were enrolled in private secondary schools in Boston.[41]

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[38] County and City Databook-1972, p. 707.

[39] County and City Databook-1972, pp. 630-797; Annemette Sorensen, K. Taeuber, and L. Hollingsworth, Indexes of Racial Residential Segregation for 109 Cities in the United States, 1940 to 1970 (Madison: Institute for Research on Poverty, University of Wisconsin, 1974).

[40] County and City Databook-1972, pp. 630-797.

[41] 1970 Census of Population, p. 295.

Thus the private schools in Boston are almost exclusively white. Parochial schools account for 94 percent of the private elementary enrollment and for 79 percent of the private high school enrollment.[41]

Despite the large percentage of pupils enrolled in private schools, Boston has a large public school system. In the fall of 1973 it enrolled 92,941 pupils, had a staff of 7,491, operated 197 separate schools, and had total expenditures of $151,050,000.[42] Between fall 1970 and fall 1973, total public school enrollment declined by 3.2 percent in the city. During the same period, the black percentage of total enrollment increased from 29.8 to 34.1 percent.[43]

In 1973 teachers in Boston received an average annual salary of $12,000. The average pupil-teacher ratio was 17.8 to 1, and the average per pupil expenditure was $1,295. [44]

During the 1972-73 school year, 5.4 percent of the permanent teachers, 3.9 percent of the principals and headmasters, and 5.7 percent of the assistant principals and assistant headmasters were black. None of the 28 psychologists and 46 truant officers were black.[45] These figures compare with the approximately 33 percent black student body and 16 percent black population in the city the same year.[46]

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[41] 1970 Census of Population, p. 295.

[42] U.S., Department of Health, Education, and Welfare, Office of Education, Statistics of Public Elementary and Secondary Day Schools, Fall 1973, pp. 15, 17, 28, and 30.

[43] Ibid., pp. 24 and 30.

[44] U.S., Department of Health, Education, and Welfare, Office for Civil Rights, Directory of Public Elementary and Secondary Schools in Selected Districts - Fall 1970, 1972; unpublished data for fall 1973 provided from HEW/OCR in telephone interview with Al Hill, May 29, 1975.

[45] Morgan v. Hennigan, 379 Fed. Supp. 410, 463 (D. Mass. 1974):

[46] Ibid.

The percentage of Boston's total population that is enrolled in both public and private kindergarten, elementary, and high schools is less than the percentage for 27 of the 30 largest cities.[47] Boston also has a smaller percentage of black pupils enrolled in these elementary and secondary schools than do most of these cities; it ranks 20th in this regard. Only 3 of the 30 cities have a larger percentage of their elementary and secondary school population enrolled in private schools (Philadelphia, Pittsburgh, and Buffalo).[48] In 1972, six cities had schools that were less segregated than Boston's.[49]

The rest of this section compares Boston's public school system with the 19 other largest city school systems. Only 20 cities are used because fairly current data are readily available for only these 20 cities. Unless otherwise indicated, the data reported in this part are from the fall of 1973.

Sixteen cities have larger public school enrollments than Boston. They include Cleveland, Dallas, Memphis, Milwaukee, St. Louis, and San Diego, as well as other cities with large school systems. In all but one of these cities (St. Louis), enrollment fell between fall 1972 and fall 1973; Boston's decline was larger than that in half of the other school districts.[50]

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[47] County and City Databook-1972, pp. 630-797.

[48] Ibid.

[49] Reynolds Farley, Racial Integration in the Public Schools, 1967-72: Assessing the Effect of Governmental Policy," Sociological Focus, January 1975.

[50] Statistics of Public Elementary and Secondary Day School-Fall 1973, p. 17.

Most of the districts also reported a decrease in classroom teachers during this period. Boston was among the exceptions and exhibited a greater percentage increase in teachers than any other city except Baltimore.[51] This helped give Boston a lower teacher-pupil ratio than any of the other 19 cities.[52] Except for two of the cities, Boston also has a lower ratio of students to other professional, instructional staff (principals, assistant principals, television instructors, librarians, and guidance, psychological, and audiovisual staff).[53]

Although Boston has an unusually large professional, instructional staff for the number of enrolled pupils, it employs relatively small numbers of other types of staff. Boston has more pupils per nonprofessional, instructional staff (teacher and library aides, secretarial and clerical assistants, and other nonprofessionals directly assigned to support instruction) than all but 5 of the 20 cities. It has more enrollment per professional, noninstructional staff (administrative and health personnel, social workers, attendance personnel, and a few others) than 11 of the other cities, and more enrollment per nonprofessional, noninstructional staff (health aides, clericals, secretaries, plant operation and maintenance personnel, bus drivers, and food service workers) than all the other cities.[54]

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[51] Ibid., p. 15.

[52] Ibid., p. 24.

[53] Ibid., pp. 15 and 17.

[54] Ibid.

Boston pays its teachers more, on the average, than 10 of the 19 cities and has higher current expenditures per pupil than 13 of the other cities.[55] In 1973 it also had larger capital expenditures for educational purposes than all but 6 of the cities.[56]

Three measures of a school system's effectiveness are its absenteeism rates, its standardized achievement test scores, and the postgraduate activities of its pupils. These are not the only measures of a school system's effectiveness, but they are important ones and ones for which there are data on Boston.

Boston's pupils had an average absentee rate in the 1973-74 school year of 16 percent, an increase of one percentage point from the previous two years.[57] Absenteeism became much worse during the 1974-75 school year; during the first 6 months of that academic year the average daily rate of absenteeism in middle, junior high, and high schools was about 50 percent.[58]

The reading achievement test scores of Boston's pupils are substantially below national norms at all but the first and second grades, where they match national norms.[59] At the third grade level, the

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55/ That is, per pupils in average daily attendance.

56/ Statistics of Public Elementary and Secondary Day Schools-Fall 1973, p. 30.

57/ Muriel Cohen, "Boston Reading Scores Reverse 6-Year Decline," Boston Globe, Mar. 21, 1975, p. 35.

58/ Massachusetts Advocacy Center, mimeographed tabulations, undated.

59/ Cohen, Boston Globe, Mar. 21, 1975, p. 35.

average (median) pupil is 4 months behind national norms; at the fifth grade level, there is a 7-month lag; at the seventh grade, there is a 14-month lag; and at the ninth grade there is a 17-month lag.[60/] These results were recently reported in a front page article of the Boston Globe under headlines which heralded, "Boston Reading Scores Reverse 6-year Decline."

Unfortunately, the data which are provided in the article barely support the headlines. Data were given for the 1972-73 and 1973-74 school years for eight different grade levels. In five of the eight, the average reading scores declined and in one grade it remained constant; in five of the eight, the average word knowledge scores remained constant, and in two of the eight they declined.

One year after the class of 1972 had graduated from Boston's high schools, 35 percent were in college, 10 percent were in other schools, and 43 percent were working or in the military services. Similar data for the previous two graduating classes showed similar figures.

[60/] Boston Globe, Mar. 21, 1975, p. 35.

Indices for comparing the effectiveness of different school systems are very difficult to locate. Average student achievement gains are seldom made available by school systems, and even when they are, fair comparisons are difficult to make because different cities have different achievement tests and different testing dates. Nor do cities uniformly collect data on the percentage of their pupils who go to college, enter skilled craft training programs, and take various competitive jobs. The one comparison that can be made is of the percentage of pupils who drop out before finishing high school. On this indicator, only 5 of the 20 cities do worse than Boston (Chicago, Detroit, Indianapolis, New York City, and St. Louis), despite the fact that Boston spends more money per pupil than 13 of the other 19 city school systems.[61/]

School Segregation

Until recently, Boston's schools were quite segregated. In the 1971-72 school year, the public school enrollment was 61 percent white, 32 percent black, and 7 percent other minorities; but 84 percent of the white pupils attended schools which were more than 80 percent white, and 62 percent of the black pupils attended schools which were more than 70 percent black. At least 80 percent of Boston's schools were segregated in the sense that their racial composition was substantially different than that of the entire city school system.[62/]

[61/] Statistics of Public Elementary and Secondary Day Schools-Fall 1973, p. 30. The indicator given here is the ratio of 12th grade enrollment to 9th grade enrollment.

[62/] Morgan, at 424.

The pattern of segregation occurred in high schools, junior high schools, and elementary schools. Of the approximately 140 elementary schools (with sixth the highest grade), 62 were less than 5 percent black, and 32 were 85 percent or more black. Only 5 of the approximately 140 elementary schools had a racial composition within 10 percent of that for the citywide system. Of the 19 junior high and middle schools, 5 were more than 85 percent black and 7 were more than 87 percent white.[63/] Of the 18 high schools, 5 were more than 90 percent white, and 3 were more than 70 percent black; only two of the high schools had a racial composition within 10 percent of that for the entire city school system.[64/]

Contrary to widespread public opinion, Boston's school system has not been one in which most children walked to neighborhood schools. In the early 1970's, approximately one-third of Boston's pupils used buses or other public transportation to travel to and from school. Most of these pupils were in high school, but about 3,000 elementary pupils were also bused.[65/] The Federal district court in Boston found that the elementary schools of Boston "generally cannot be fairly characterized as neighborhood schools." The court cited as evidence: (1) the many cases where attendance lines require some pupils to travel many blocks to a school when there is another school much closer but

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[63/] Morgan, at 425.

[64/] Ibid.

[65/] Ibid.

on the other side of the line; (2) multischool attendance districts where pupils can choose to attend any school within the attendance district regardless of its proximity to their home; (3) magnet schools that are open to pupils from many different attendance districts; and (4) transfer policies that allow certain children to attend schools for which they would not otherwise be eligible.[66/] The junior high schools, the middle schools, and high schools have operated in the recent past on even less of a neighborhood basis than the elementary schools. Most obtain pupils from large sections of the city, and some admit pupils from all sections of the city.[67/]

Although Boston has the fourth smallest enrollment of these 20 cities and the second smallest land area, it operates more schools than 12 of the other 19 cities.[68/] Thus, the U.S. district court's order which closed 20 of 180 schools will not result in Boston having an appreciably larger average school size or longer average distances between schools than is now the case in many of the other cities.

66/ Morgan, at 423 and 433.

67/ Ibid., at 423.

68/ Statistics of Public Elementary and Secondary Day Schools-Fall 1973, p. 28.

A Comparison of Four Areas In Boston City

This section compares four areas within the city of Boston: Charlestown, South Boston, Roslindale, and Roxbury. These communities are to be the subject of intensive study by the Commission in conjunction with its hearing in Boston.

With the exception of Roxbury, each of the areas is defined here as it is outlined in figure 1. Roxbury is defined as the area called Washington Park-Model City in figure 1, except for the section approximately two-thirds of a mile square in the southwest part of the area.[69]

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[69] Data for Charlestown, South Boston, and Roslindale are from tabulations created by the Boston Redevelopment Authority from 1970 census data tapes. The tabulations were provided in mimeographed form. Data for Roxbury are from the Boston Redevelopment Authority tabulations for the Washington Park-model cities area minus the data published by the U.S. Department of Commerce, Bureau of the Census, in Census Tracts - Boston, Mass. Standard Metropolitan Statistical Area (PHC(1)-29) for census tract number 1203. Census tract 1203 is the area bounded by the railroad tracks on the west, Green Street and Glen Lane on the south, Sigourney and Walnut Streets on the east, and Atherton Street and Columbus Avenue on the north.
References to Boston Redevelopment Authority tables give the citation numbers used in the Boston Redevelopment Authority index to these tables (mimeographed).

Population

The population of Charlestown is 15,353, of whom only 76 are black; in South Boston, it is 38,488, of whom 388 are black; in Roslindale, it is 39,558, of whom 750 are black; and in Roxbury, it is 65,528, of whom 52,661 are black.[70] Thus, of these four areas, only one, Roxbury, has a substantial percentage of blacks, and it is a predominantly black area. Of the 14 planning districts in Boston, only 4 others have a black population of 3 percent or more.[71] Although Roxbury contains 10.2 percent of the city's total population, it contains half of the city's black population.

Of these four areas, only Roxbury lacks a large population of persons who are foreign-born or the offspring of at least one foreign-born parent. Over 31 percent of Charlestown's population is made up of such persons, as is 37.2 percent of South Boston's residents, 47.8 percent of Roslindale's, and 17.8 percent of Roxbury's. The most common national origins of these persons are shown below.

70/ Boston Redevelopment Authority, Tabulations from 1970 census data tapes, Population - B-1: Census Tracts - Boston, p. P-37.

71/ Boston Redevelopment Authority Tabulations, Population-B-1.

TABLE 4

Most Common National Origins of the Foreign Born and Their First Generation of Offspring in Four Areas of Boston.

	Ireland	Italy	Canada	Latin Amer.	Other
Roxbury	1,236	962	1,526	3,613	3,591
Charlestown	1,952	665	996	68	1,156
South Boston	5,133	1,700	2,366	76	5,054
Roslindale	5,160	3,959	2,682	215	7,043
Whole City	51,716	44,975	36,333	14,545	89,520

Source: Charles M. Sullivan, Socioeconomic Characteristics of Boston Neighborhoods: Data from the 1970 U. S. Census, Action for Boston Community Development, 1972, pp. 69-73. Note that the boundaries used to define Roxbury and Roslindale for the purpose of these tabulations are somewhat different from those used in the other tabulations presented in this section of the text.

The population of Charlestown declined by 24 percent from 1960 to 1970; in South Boston, it declined by 12 percent; in Roslindale, it increased by 2 percent; and in Roxbury, it decreased by about 26 percent.[72] Over the same period of time the black population increased by very small numbers in all of these areas but Roxbury; the figures are 102 persons, 551 persons, 628 persons, and 12,236 persons, respectively.[73]

Of these four areas, only Roxbury experienced a substantial change in racial composition between 1960 and 1970. During that period the black population increased by about 12,000 people, while the white population decreased by about 46,000 people. Stated another way, the black population increased from about 46 percent to some 82 percent of the population of Roxbury.[74]

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[72] Boston Redevelopment Authority Tabulations, Population-B-20.

[73] The Roxbury figure is estimated assuming that all 444 blacks who were in tract 1203 in 1970 moved there since 1960. Boston Redevelopment Authority Tabulations, Population-B-4: Census Tracts-Boston, p. P-37.

[74] Boston Redevelopment Authority Tabulations, Population-B-4 and Population-B-20.

Boston has a modest population of Spanish-speaking background, about 17,971 persons, or 2.8 percent of the city's population, in 1970. Most of these residents live in Roxbury (4,056), but they are not nearly as concentrated there as are blacks. In Dorchester there are 3,561 Spanish-speaking residents and another 3,015 live in the Jamaica Plain-Parker Hill area.[75]

Educational Attainment, Employment, Income, Housing

It is commonly thought that Roxbury's population is considerably less educated and poorer than the rest of Boston. It is somewhat less educated and substantially poorer than most of Boston, but it is quite similar to both Charlestown and South Boston residents in terms of educational attainment. The average educational attainment of persons over the age of 25 in these three sections of Boston and in Roslindale is shown below.

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[75] Boston Redevelopment Authority Tabulations, Population-B-2; Census Tracts - Boston, p. P-175.

TABLE 5

Educational Attainment of Adults in Four Sections of Boston

	% having completed less than 1 yr. of high school	% having completed high school but no college	% having completed 1 to 3 years of college	% having completed 4 or more years of college
Roxbury	32.2	33.1	6.6	3.8
Charlestown	26.9	36.6	4.6	3.9
South Boston	30.7	34.2	4.4	4.6
Roslindale	25.2	41.0	7.9	7.7
Whole City	26.1	34.3	8.8	10.3

Source: Boston Redevelopment Authority, Tabulations from 1970 Census data tapes, Population-B-11; U.S. Department of Commerce, Bureau of the Census, Census Tracts-Boston, Mass., #PHC(1)-29, p. P-77.

The people of Roxbury, Charlestown, and South Boston also have a similar occupational distribution. The only substantial difference is that the labor force in Roxbury is more frequently employed as operatives and less frequently employed as clerical workers than is the case in Charlestown and South Boston. This is indicated by the data in table 6.

TABLE 6

Occupational Distribution of the Labor Force in Four Sections of Boston*

Occupation	Roxbury	Charlestown	South Boston	Roslindale	Whole City
Professional technical & managerial	13.6%	12.0%	12.4%	19.5%	22.5%
Craftsmen & foremen	10.6	12.5	12.1	12.8	10.2
Operatives	23.1	15.1	16.8	13.3	13.8
Clerical	22.7	29.9	30.2	28.3	26.9
Sales	2.9	4.4	4.1	5.6	5.7
Services	22.0	16.4	17.9	16.3	16.8
Other	5.1	9.7	6.5	4.2	4.1

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* Over 16 years old.

Source: Boston Redevelopment Authority, Tabulations from 1970 Census data tapes, Population-B-9; U.S. Department of Commerce, Bureau of the Census, Census Tracts-Boston, Mass., # PHC(1)-29, p. P-117.

Despite rather similar educational levels and occupations in Charlestown, South Boston, and Roxbury, there is a large difference in family income. Median income in Roxbury is substantially lower than in the other areas. This is shown below.

TABLE 7

Families By Income Levels in Four Sections of Boston

Level of Income	Roxbury	Charlestown	South Boston	Roslindale	Whole City
Less than $4,000	28.3%	17.0%	18.3%	9.1%	16.0%
$4,000- $6,999	26.1	18.3	19.6	14.7	18.5
$7,000-$14,999	32.8	48.1	47.8	53.5	47.4
$15,000 and Over	7.4	16.6	14.3	22.7	18.1
Median Income	$6,492	$8,827	$8,704	$10,539	$9,133

Source: Boston Redevelopment Authority, Tabulations from 1970 Census data tapes; Population-B-5; U.S. Department of Commerce, Bureau of the Census, Census Tracts - Boston, Mass., #PHC(1)-29, p. P-117.

Charlestown and South Boston, like Roxbury, are primarily communities of renters rather than of homeowners. Of the occupied housing units, 67.7 percent are inhabited by renters in Charlestown, 74.1 percent in South Boston, 79.7 percent in Roxbury, and 55.0 percent in Roslindale.[76] The rental units in Charlestown, South Boston, and Roxbury all have extremely low average values: $6,112, $4,612, and about $5,430, respectively.[77]

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[76] Boston Redevelopment Authority Tabulations, Housing-A-2; Census Tracts-Boston, p.H-77.

[77] Boston Redevelopment Authority Tabulations, Housing-A-11.

Some 9.3 percent of the housing in Charlestown is overcrowded, as is 8.8 percent of the housing in South Boston, 10.9 percent of the housing in Roxbury, and 6.5 percent in Roslindale.[78] The definition of overcrowded used here refers to housing units where there is more than one person for each separate room in the unit, excluding bathrooms and hallways. Thus, a one-bedroom apartment with a kitchen and a combination dining and living room is not considered overcrowded unless it is inhabited by four or more persons. Five percent of all housing units in Charlestown lack some normal plumbing facilities, 6.2 percent in South Boston, 2.8 percent in Roxbury, and 1.5 percent in Roslindale.[79]

School Achievements

Incomplete data on school achievement test scores suggest that the reading skills of pupils in Roxbury's elementary schools are similar to those of pupils in Charlestown and South Boston schools at the early grades, but substantially lower at the later elementary grades. At the second grade level, Charlestown and South Boston pupils are at the national norm in reading, and the Roxbury pupils are about 2 months below norm. By the fifth grade, however, when South Boston and Charlestown pupils have fallen to about 1 and 5 months, respectively, below the norm, Roxbury pupils have fallen to 13 months below the norm. Pupils in Roslindale's elementary schools appear to be slightly above the norm in second grade and about at the norm in fifth grade.[80]

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[78] Boston Redevelopment Authority Tabulations, Housing-A-8; Census Tracts-Boston, p. H-37.

[79] Ibid.

[80] Boston Globe, Mar. 21, 1975, pp. 2, 34-35.

At the intermediate school level, the pattern in the fifth grade continues. Pupils in Charlestown and South Boston are 10 and 14 months below norm in the seventh grade, but the pupils in Roxbury's schools are 25 months behind norm in the seventh grade. [81]

Twenty-six percent of Charlestown High School's graduates in 1972 were attending college or other schools a year after graduation. The corresponding figures for South Boston High School and for Roslindale High were 27 percent and 32 percent respectively. No single high school enrolls a substantial portion of Roxbury's high school population.

Thus, Roxbury, Charlestown, and South Boston are communities with some close similarities and a few differences. It is race, however, more than any other major socioeconomic indicator, that distinguishes Roxbury from the other two communities. Roslindale, on the other hand, differs in many socioeconomic characteristics from the other three areas of Boston.

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[81] Boston Globe, Mar. 21, 1975, pp. 2, 34-35

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Boston City Compared With The Surrounding Metropolitan Area

Population and Land Area

The metropolitan area surrounding Boston is substantially larger in both population and area than the city. The suburban areas total 941 square miles, compared to Boston's 46 square miles.[82] The population of the surrounding area is 2,112,733, compared to 641,071 for the city.[83] While the city's population declined 8.1 percent between 1960 and 1970, the surrounding suburbs' population increased by 11.3 percent.[84]

Educational Attainment, Employment, Income, and Housing

The residents in Boston's suburbs are generally more highly educated, hold higher-skilled jobs, and have a higher family income than city residents. The median years of schooling completed by persons 25 years old and older is 12.1 years in the city and 12.5 years in the suburbs. Over 10 percent of city residents and 17.4 percent of those in the suburbs have completed 4 or more years of college.[85] Twenty-two and one-half percent of the employed labor force in the city holds professional, technical, managerial, or administrative jobs, compared to 30.9 percent of the employed labor force in the suburbs.

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[82] County and City Databook-1972, p. 548. The statistics given for the surrounding metropolitan area are the Census Bureau's statistics for the Boston Standard Metropolitan Statistical Area minus the Census Bureau's statistics for the city of Boston.

[83] 1970 Census of Population, p. 275.

[84] Ibid., p. 24.

[85] Ibid., p. 295.

The percentage of the employed labor force in jobs as craft workers and blue-collar worker supervisors is 10.2 percent in the city and 12 percent in the suburbs.[86] Average family income is $10,272 per year in the city and $14,106 in the suburbs.[87]

One of the characteristics that most distinguishes the population of the city from that of the suburbs is the percentage of blacks. Eighty-four percent of nonwhites in the whole metropolitan area are black.[88] The city is 18.2 percent nonwhite, whereas the surrounding metropolitan area is only 1.6 percent nonwhite.[89] This pattern is common among many metropolitan areas, and is often explained as follows. It is said that black workers tend to have lower educational levels and are less likely to have jobs that require higher levels of education or skills. It is also explained that the average black family has a lower income than the average white family, and that the suburbs generally have very little of the low-income housing that is needed by many black families.

86/ 1970 Census of Population, p. 325.

87/ Ibid., p. 355.

88/ Ibid., p. 62.

89/ Ibid.

These explanations are, however, quite inadequate for explaining the lack of black population in the surrounding metropolitan area of Boston. It is true that blacks in the Boston area are less likely to have high levels of education or income, but a modest percentage does. The black population of Boston is not uniformly poorly educated, uniformly employed in unskilled and semiskilled jobs, or of low income. Forty-five percent of the black adults in the city of Boston have completed high school;[90/] 24 percent of the employed black labor force holds professional, technical, managerial, or craft jobs;[91/] and 15 percent had family incomes exceeding $12,000 in 1970.[92/] In addition, the suburban area surrounding Boston has more unskilled and semiskilled jobs than the city, and more low-income housing than the city.

There are 91,582 adults over the age of 25 in the city with less than 1 year of high school, but there are 185,060 such adults residing in the Boston suburbs.[93/] In the city, 8,918 persons are in retail sales jobs; 38,566 in the surrounding area. There are 21,117 persons

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[90/] 1970 Census of Population, p. 375.

[91/] Ibid., p. 395.

[92/] Ibid., p. 405.

[93/] Ibid., p. 295.

employed as secretaries, stenographers, and typists in the city; another 55,880 in the suburbs. In the city, 36,695 people work as operatives (people who operate equipment or machinery who are not classified as craftworkers); another 108,372 in the suburbs. There are 11,031 persons employed as laborers in the city, and 25,663 in the suburbs. Of service workers, 44,688 persons are in the city, and another 98,842 are in the suburbs.[94/]

Altogether, these jobs total 327,323 in the surrounding metropolitan area of Boston. Most of these jobs are semiskilled and do not require high levels of education or training. Clearly, the reason why few blacks reside in the surrounding metropolitan area of Boston appears to have little to do with a lack of jobs for which they might qualify. It would require only 10.3 percent of the above-enumerated semiskilled jobs in the suburbs to provide employment for every black resident of the city who is currently in the labor force.[95/]

Moreover, there is no great lack of housing in the Boston suburbs that can be afforded by low- and modest-income families. There were 30,938 families with incomes of less than $5,000 per year who had found housing in the city, but 53,956 families in the same income category had found housing in the suburbs.[96/] Thus, there are substantial numbers of low- and modest-income families who are financially able to reside in the suburbs of Boston. It would take only 12.6 percent of the suburbs' housing units to house all the black families of Boston.[97/]

[94/] 1970 Census of Population, p. 325.

[95/] Ibid., p. 395.

[96/] Ibid., p. 355.

[97/] Ibid., p. 405.

Thus, although the suburbs around Boston do have, on the average, a population which is more highly educated, employed in higher-skilled jobs, and of higher income than the population in the city, this cannot account for the tremendous differences in the percentages of blacks in the populations of the city and the suburbs. It appears that other barriers must account for this difference [98]

White Flight

It is often argued that desegregation of large city school systems will provoke the flight of white families from those cities to suburbs. In Boston, however, "white flight" was well under way as early as the 1950's and 1960's before school desegregation became an issue. Between 1950 and 1960, a net of 124,668 whites moved out of the city, and a net of 187,521 whites moved into the suburbs of Boston. Between 1960 and 1970, a net of 97,668 whites moved out of the city, and a net of 206,663 whites moved into the suburbs. [99] Hence, "white flight" to the suburbs was considerably less during the decade when school desegregation efforts intensified than during the previous decade.

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[98] Discrimination may well provide one explanation. See the discussion of housing discrimination in the Boston area in Morgan, at 475.

[99] 1970 Census of Population, pp. 21 and 62; 1960 Census of Population, pp. 16, 78, 80; U.S. Department of Commerce, U.S. Bureau of the Census, Characteristics of Population, Census of Population and Housing, Vol. I, 1950, p. 53.

It would be unfair to say that such changes between 1950 and 1970 were totally unrelated to desegregation. During the 1950's a net of 20,421 blacks moved into the city, and during the 1960's another 41,542 moved to the city.[100/] During this period, some school enrollments in Boston changed from all white to biracial. There is clear evidence that many white parents were able to transfer their children from these changing schools to other all-white public schools in the city, but some parents who wanted to remove their children from the biracial schools may have moved instead to the suburbs. On the other hand, there is also clear evidence that a substantial part of the suburban migration of white families was unrelated to the changing racial composition of some Boston schools. This is indicated by the fact that some of those areas of Boston that experienced negligible increases in the number of black residents between 1950 and 1970 had substantial declines in the number of white residents, as shown below.

TABLE 8

Changes in Black and White Population
Between 1950 and 1970 for Selected Areas of Boston

	Whites	Blacks
East Boston	- 12,646	+ 367
Charlestown	- 15,788	- 191
South Boston	- 17,791	+ 609
Central	- 19,020	- 27

Source: Boston Redevelopment Authority, Tabulations from 1950, 1960, and 1970 Censuses of Population and Housing, Population-B-4 and Population-B-20.

[100/] 1970 Census of Population-1970, p. 62; 1960 Census of Population, pp. 78 and 80; 1950 Census of Population, p. 53.

B. THE EDUCATIONAL HIERARCHY

Boston School Committee

As early as 1636, a semi-autonomous, elected body of officials known as the Boston School Committee was formulating educational policy for the public schools of Boston. In 1905, the present number of five members on the committee was established. Candidates for the Boston School Committee are elected at large: their 2-year terms are simultaneous, and elections often find a total of 15 to 20 candidates vying for these positions.[101]

Currently, the five school committee members are John J. McDonough, chairman; Paul Ellison; John J. Kerrigan; Kathleen Sullivan; and Paul R. Tierney. Their positions on the committee are unsalaried, but approximately $250 per week is allotted to each member for administrative and secretarial assistance, along with compensation for office expenses such as stationery, postage, and other incidental costs.[102]

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[101] Since 1960, there have been 17 individuals elected to the Boston School Committee: 15 Irish-Catholics, 1 Yankee, 1 person of Irish and Jewish descent. No black has ever been elected to the Boston School Committee.

[102] Finance Commission of Boston, "Final Report of Investigation into the Administration, Operations and Finances of the School Committee of the City of Boston," February 1974, p. 24. The finance commission is a watchdog agency appointed by the Governor to observe the operation of Boston's city government.

A position on the school committee has often been viewed as a potential "springboard to higher office."[103] When the Racial Imbalance Act was enacted in 1965, the school committee consisted of Thomas S. Eisenstadt, chairman; Joseph Lee; William E. O'Connor; Arthur Gartland; and Louise Day Hicks. Eisenstadt is currently the Sheriff of Suffolk County, and Mrs. Hicks serves on the city council, after having been a U.S. Congresswoman and an unsuccessful candidate for Mayor of Boston. A current school committee member, John Kerrigan, was recently defeated in a primary election for District Attorney of Suffolk County.

School Committee Authority

The broad authority and responsibilities of the school committee are mandated by several Massachusetts general laws, most notably Chapter 50. The Boston School Committee also has its own rules and regulations that outline its duties.

In an analysis of the operation of the committee, the Finance Commission of the City of Boston divided up the areas of responsibility in the following manner:

1. Personnel Decisions--Individual

The committee oversees all personnel and will often make decisions regarding routine personnel changes, such as faculty transfers, assignments to special programs, promotions, leaves of absence, appointment of academic and nonacademic personnel, and approval of temporary teachers. The Boston public school system employs over 8,000 persons, all of whom come under school committee jurisdiction.

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[103] Ibid., p. 6.

2. Personnel Decisions--Employee Groups

The committee is responsible for the negotiation of salaries and contracts with the employee unions, including the Boston Teachers Union and the Boston Association of School Administrators and Supervisors.

3. Contracts

The committee is empowered to award contracts to outside businesses and professionals for the maintenance of school facilities and the provision of educational services. These contracts follow strict guidelines as to bid specifications, procedures, and ability of contractor to perform and are generally awarded without public advertising.

4. Authorization of Curricula and Texts

The school committee approves the use of all textbooks and materials for classroom use, adopts curriculum guidelines, and approves special educational programs.

5. School Committee Budget

Following its approval by the mayor and the city council, the committee allocates the budget. If a budgetary request by the school committee is equal to that of the previous year plus salary increases, approval is automatic, but the school committee cannot independently increase the amount spent on education without approval by the mayor and the council. Two budgets are submitted to the mayor, one for general education purposes and the other for building alterations and repairs.

6. Logistical Policy

The committee has the authority to create magnet schools and programs, establish admission standards for the Latin and Technical Schools, and, normally, to draw school district lines. In view of its finding that the school committee had drawn school district boundaries in a discriminatory manner, however, the Federal district court has now assumed responsibility for dividing the city into eight school districts and for determining admission criteria for the college preparatory, examination schools. Student assignment policy is another traditional responsibility of the school committee which has been temporarily assumed by the court.

Boston School Department

By a majority vote of the school committee, a superintendent of schools is appointed to a 3-year term as the "executive officer of the school committee in all matters pertaining to the powers and duties of the school committee."[104] Dr. William Leary is the current superintendent, with his term expiring on August 31, 1975. Before he was named to the superintendent's position in 1971, Leary served as director of the department of curriculum development, and as a high school teacher in 1959.

The committee has appointed as Dr. Leary's successor, Marion J. Fahey, an associate superintendent who began her career in the Boston school system in 1949 as an elementary school teacher. As associate superintendent, Ms. Fahey was involved with the management of school reading programs and supervision of Title I funds.

Assisting the superintendent in the administration of the school system are six associate superintendents responsible for six administrative areas, and six assistant superintendents responsible for six geographic areas in the city. The associate superintendents rank directly beneath the superintendent in line of authority, and their responsibilities include: personnel (teacher recruitment and placement); supportive services (coordination of reading programs, Title I programs, and student teachers); career education and general support services (also known as school operations-guidance, and pupil adjustment counseling); educational planning and budgeting (the educational planning center, research, and evaluation); and curriculum and staff development (textbooks, new teacher orientation, and bilingual education). A business manager, responsible to both the school committee and the superintendent, is the executive officer for financial and business management, with responsibility for budget, purchase and supply, and payroll preparation.

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[104] Mass. Gen. Laws, ch. 150.

The six assistant superintendents have offices located in different sections of the city. Although the position is viewed primarily as a liaison between the community and the school department, the assistant superintendents' role is not clearly defined. Lacking support staff and significant authority, their main contacts are with headmasters and principals of the area schools and with superiors in the school department.

Proposed Alternatives to the Present Boston School Structure

There have been a number of proposals to reorganize the Boston School Department and to abolish the present Boston School Committee. One study, which focused on the role of the assistant superintendents, found their responsibility within the system "clouded" and, therefore, recommended that the six assistant superintendents "be designated to direct and manage the schools and teaching and support personnel within six geographical areas."[105/] These area superintendents would be provided sufficient staff and would establish a direct link between the schools and the superintendent.

105/Peat, Marwick, Mitchell & Co., Management Study of the General Administration, Part 1: "Analysis of the General Administrative Organization," Aug. 1974, p. 7.

Although the superintendent would retain ultimate decision-making authority based on school committee policy, the area superintendents would provide decentralized administration to their areas.

In February 1974, the city finance commission called for abolition of the school committee. Stating that "such a body should not be permitted to continue," the commission reported that the committee "has used its power over the hiring and promotion of personnel to obtain substantial monetary contributions from school employees." [106/]

A referendum on the November 1974 city ballot called for the abolition of the Boston School Committee and its replacement by an educational hierarchy directed by the school superintendent and directly responsible to the mayor. Question 7, or the mayor's plan as it was referred to because of strong support by his office, called for clearly defined and wide ranging responsibilities for the area superintendents. Assistant superintendents would have complete responsibility over subject material in their specific areas. The authority of the area superintendents would include faculty and administrative appointments, deployment of experts and consultants, implementation of school policy, and preparation of an area budget. Each

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[106/] "Final Report of Investigation into the Administration, Operations, and Finances of the School Committee of the City of Boston."

area superintendent would be assisted by an area advisory council[107] made up of residents, parents, teachers, and students, empowered to allocate district funds, rate teacher applications, and propose candidates to fill administrative vacancies. The mayor would assume responsibility for labor negotiations with the school department's employee unions and would name a superintendent of schools based upon recommendations from a citywide advisory committee. The citywide committee, made up of representatives from the six area advisory councils, could veto the mayor's choice for superintendent and prevent removal of a superintendent by the mayor.

Question 7 was defeated by a 3-2 margin in the November referendum. Although the referendum was not directly linked to school desegregation, a "no" vote was viewed as a strike against "forced" busing, and strong opposition by antibusing groups contributed to its defeat.

One of the most important units in the school department is the educational planning center, which falls under the jurisdiction of the associate superintendent for educational planning and budgeting. The center is normally responsible for developing new educational programs but has recently devoted most of its efforts to desegregation-related matters. Following the June 21, 1974, court order, the center added staff

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107/ The area advisory councils would be established at each middle and high school, and representatives would be elected by residents of each district.

and worked on proposed modifications to the Phase I plan for the school committee. In December 1974, and January 1975, it was responsible for preparation of two Phase II plans to be submitted to the court.

Massachusetts Board of Education

The Massachusetts State Board of Education consists of 11 unpaid members, appointed by the Governor to 5-year terms, who are to "support, serve and plan general education in the public schools."[108/] The chief executive of the board is its commissioner, currently Gregory R. Anrig. The board and the commissioner exert their influence on all facets of public education in the State: curriculum and instruction, administration and personnel, research and development, school facilities and related services, State and Federal financial assistance, occupational education, and special education. Length of the school day and year, educational standards for appointment of professional personnel, teacher certification, maximum pupil-teacher ratios, and minimum age requirements are all matters that come under the statutory authority of the State board of education.[109/]

[108/] Mass. Gen. Laws Ch. 15, § 1G.

[109/] Massachusetts Department of Education, "Programs and Personnel" (1974).

Funding Authority

State financial assistance to Boston city schools is handled through the State board of education as stipulated in Chapter 70 of the Massachusetts General Laws. Chapter 70 outlines a complicated formula that takes the local property tax rate into account in determining how much State aid a city or town should receive.

Currently, the State provides funds for about 30 percent[110/] of the total cost of education in local school districts. Funding is provided in such broad areas as administration, instruction, attendance, health services, food services, and student activities.[111/] Particular programs are also funded by the State according to other provisions of State law.[112/]

Transitional Bilingual Education Act

One such program provides bilingual education for language minority pupils. Bilingual education in the Boston public schools is based on the philosophy that non-English-speaking children are entitled to receive the same education as those children whose native language is English.[113/] In

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[110/] Massachusetts Department of Education, "Facts About Education in Massachusetts, 1973-1974," p. 10.

[111/] Ibid.

[112/] Among these statutes are the Special Education Act, Chapter 766 of the Acts of 1972; bilingual education, Chapter 69 of the Acts of 1972; and racial balance, Chapter 636 of the Acts of 1974.

[113/] Boston School Department, "Philosophy and Goals of the Bilingual Program", March 1975.

February 1972, the Transitional Bilingual Education Act was enacted as Chapter 71 of the Massachusetts General Laws. The new law called for "a full-time program of instruction covering all subjects normally received by public school children, to be offered both in English and in the primary language of students of limited English-speaking ability."[114/] All school districts in the Commonwealth were now required to annually ascertain the number of such students, and if there are more than 20 in a school district, to establish a program of bilingual education. To supervise implementation of the law, the bureau of transitional bilingual education was created, to be assisted by an advisory council with many of the people who fought for passage of the law serving on the committee.[115/] The law was transitional in the sense that, after 3 years in a bilingual program, students would then transfer into the regular public school curricula.

The October 1974 census of the Boston public schools found almost 7,000 children in school whose primary language was not English, 4,000 of whom possessed limited English-speaking ability.[116/] One hundred and eighty-seven bilingual teachers are now employed by the Boston School Department in Boston to teach students whose native languages are Spanish,

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114/ Mass. Gen. Laws, Ch. 71A, § 2.

115/ Frederick Lewis, "Three Years Later--The Transitional Bilingual Education Act," in Inequality in Education, Harvard Center for Law and Education, No. 19, February 1975.

116/ Boston School Department, Bilingual Census, Boston Public Schools, Oct. 1, 1974.

Haitian French, Chinese, Greek, Portuguese, and Italian. Nine high schools, 14 middle schools, and 35 elementary schools currently offer programs in bilingual education in Boston.[117]

School Desegregation Authority

Passage of the Racial Imbalance Act[118] in 1965 gave the State board specific authority in cases of racial imbalance in the public schools, and Massachusetts law also gives the board considerable authority with respect to allocation of Federal and State financial aid to local districts. Under State law "the Board may withhold State and Federal funds from school committees which fail to comply with the provisions of law relative to the operation of the public schools or any regulation of said Board authorized in this section."[119]

As will be seen in the next section of this report, between 1965 and 1971, the board was generally limited to a somewhat passive role in desegregation despite its funding power. In 1971, the bureau of equal educational opportunities was established to formalize communication between the State board and the Boston School Committee and to provide the board with a more orderly and aggressive means for achieving racial balance in schools. Along with the newly created task force on racial imbalance, the two groups gave the State board increased capability to press the school committee to adopt a balance plan.

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[117] Boston School Department. Bilingual Programs, Boston Public Schools, Mar. 1, 1975.

[118] Mass. Gen. Laws, Ch. 71, § 37C and 37D; Ch. 15, § 1I, 1J, and 1K.

[119] Mass. Gen. Laws, Ch. 15, § 1G.

The active role recently played by the Federal district court and the 1974 amendments to the Racial Imbalance Act have diminished the involvement of the State board in the Boston desegregation case. Chapter 636 of the Acts of 1974 eliminated the mandatory aspects of the Racial Imbalance Act while providing incentives for voluntary efforts to reduce racial imbalance. The purpose of the amendments, as stated by former Governor Francis Sargent, was "to make the State neutral on the subject of school integration."[120]

The State board does, however, retain its financial authority. Transportation costs resulting from school desegregation may be paid by the State, as well as most of the costs of new school construction which will lessen racial imbalance. The board, through the equal educational opportunities bureau, is also administering the equal education improvement fund, which allocates over $6 million for educational programs. One million dollars is being provided to various Boston colleges and universities to develop programs to ease the continuing desegregation process. Although not as active as in previous years, the State board continues to generate some pressure for school desegregation in Boston through the large amounts of funds it can funnel into the city's schools.

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[120] Boston Globe, July 28, 1974.

Community Organizations

The Boston Home and School Association was founded in 1906 by parents in the Boston community "to bridge the wide gap existing between the school and the home."[121] As described in its constitution, the purpose of the organization is "to foster a closer understanding and cooperation between the child's home and the school, concern with educational programs and to coordinate activities of the Home and School Association of the Boston Public Schools."[122] The association has regional offices in all sections of the city, and its main office is located in the building housing the Boston School Committee. Teachers, parents, and guardians of children attending Boston's public schools are eligible to apply for membership in the association.

The Home and School Association is an "integral part" of the Boston School Department, as stated in Article 1 of the association's constitution. Article 2 states that the association "shall be non-sectarian, non-political, non-commercial and will neither endorse nor oppose any candidate for public office."

121/ Alfred C. Hughes, "History of the Boston Home and School Association." 1957.

122/ Constitution of the Boston Home and School Association, April 1974.

On December 27, 1974, the Boston Home and School Association was granted intervenor status in the desegregation suit before the Federal district court, Morgan v. Hennigan.[123] A lawyer was named by the city to represent the group in court. Since the granting of intervenor status, the association has played an active role in the desegregation case, submitting Phase II proposals and modifications to the court-appointed Masters, and offering suggestions and criticisms of the plan ultimately adopted by the court on May 10.[124]

Citywide Education Coalition

The Citywide Education Coalition[125] was formed in January 1972, in response to the Boston school committee's announcement that it intended to appoint a new superintendent for the Boston Public Schools. The candidate the coalition suggested, Dr. William Leary, was later named by the school committee to the position. Its traditional concern with quality education and its efforts to increase citizen participation in the educational process led the coalition to take up the racial imbalance issue in the spring of 1973. A committee was established to study a plan developed by the State board, and an informational paper was printed and sent to all members. This information dissemination effort was expanded with the opening of a resource center in October 1973.

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[123] 379 Fed. Supp. 410 (D. Mass. 1974).

[124] The Home and School Association proposed a plan which would have affected only these schools found by the court in its June 21 order to have been racially segregated. On February 5, the court dismissed the proposal, ruling it "constitutionally unsound."

[125] Membership in the biracial coalition consists of representatives from social service agencies, Home and School Associations, and professional groups, as well as parents, teachers, and students.

Following the June 21, 1974, court order, the coalition assumed a greater role in school desegregation. A $78,000 grant was awarded the organization by the Federal Law Enforcement Assistance Administration to assist it in its activities. The coalition established an information and rumor control center, published a monthly newsletter, recruited bus monitors and transitional aides for the school department, and organized informational meetings for parents from the South End and Brighton communities. The coalition's role as a source of desegregation information for Boston parents is expected to continue under Phase II.

ROAR

The organization known as ROAR (Restore Our Alienated Rights) was created in July 1974 to unite those groups in Boston which were opposed to busing to achieve racial balance. ROAR is unincorporated, unchartered, and lists no members, but most of the individual neighborhood groups which constitute it are incorporated as nonprofit, charitable organizations (South Boston, Hyde Park, East Boston, West Roxbury information centers). ROAR's executive board, chaired by City Council Member Mrs. Hicks, meets weekly in the city council chambers.

ROAR's first major activity relating to school desegregation came as a result of the Question 7 school committee reform proposal on the November 1974 ballot. ROAR members made telephone calls, passed out 40,000 flyers and 11,000 bumper stickers ("Tell Meddlin' Kevin to Leave Our Schools Alone"), and stood at the polls with signs on election day. As noted, the opposition of ROAR and other anti-busing groups helped defeat the measure.

Since then, ROAR has organized school boycotts, proposed alternative schools, and organized rallies throughout the city in protest against the court order. ROAR representatives have also gone to Washington, D.C., to demonstrate their support for a constitutional amendment to prohibit busing for desegregation. On March 18, 1975, an estimated 1,500 Bostonians demonstrated in the Nation's capital and lobbied Congressmen and Senators in support of their proposed amendment.

NAACP

The National Association for the Advancement of Colored People (NAACP) has been a major participant in school desegregation efforts in Boston. In 1961, NAACP officials began to exert pressure on the Boston School Committee to acknowledge the presence of segregation in the city's schools. Through open hearings, the organization of school boycotts, and court litigation, the NAACP sought to increase public awareness of school desegregation in Boston and develop support for the elimination of existing racial imbalance.[126] It finally filed suit in Federal district court requesting a finding of fact on its allegations of discriminatory educational practices by the Boston School Committee, and that suit became the basis for the ultimate court desegregation order.[127]

Since the court order of June 21, 1974, the Boston branch of[128] the NAACP has continued to file motions and propose plans to the court. It has also assisted in the recruitment of black teachers, met frequently with city officials, and made recommendations to the Federal court concerning several of its rulings. The NAACP has expressed concern that the Phase II plan does not go far enough in desegregating the public schools.[129]

Operation Exodus

Other community organizations and programs also play an important role in education in Boston. In September 1965, black parents established the "Operation Exodus" program to transport their children from the areas in which they lived to predominantly-white sections of the city. Four hundred students participated in the voluntary "Exodus" program at its outset; by 1970 the number had grown to 1,100.

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[126] Boston Globe, May 25, 1975.

[127] Morgan v. Hennigan, at 463

[128] The Boston branch of the NAACP is headed by Thomas Atkins, former secretary for communities and development under Governor Sargent.

[129] Boston Globe, May 25, 1975.

"Exodus" was not always welcomed by recipient schools, although the school committee's open enrollment policy dictated that these schools accept "Exodus" students if seats were available. "Students encountered locked doors, and physical segregation in separate classrooms. Anticipating the arrival of black students, administrators of some transfer schools had desks unbolted from the floors and removed from classrooms."[130] Many black students left overcrowded and poorly supplied schools only to encounter hostility in their new schools, "with slight and belated support from the school committee."[131]

METCO

Another organization which was developed by black parents seeking a better quality of education for their children is the Metropolitan Council for Educational Opportunity (METCO). Following black community pressure, the Governor signed into law a bill in early 1966 that allowed black children to attend schools in Boston suburbs. Throughout the spring of 1966, school officials representing Newton, Wellesley, Brookline, Arlington, and other surrounding communities met with black community leaders and State officials to draw up a plan. By August, Federal funding had been approved, private grants had been procured, and staff members had interviewed and selected students for the program. When schools opened in September, black students from Boston were being voluntarily bused as far as 20 miles outside the city to suburban school districts. Currently, the METCO program includes 2,500 students and 35 suburban school districts.[132]

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[130] Morgan at 410.

[131] Plaintiff's Request for finding of fact and conclusions of law and supporting memorandum, Morgan v. Hennigan, Civil Action No. 72-911-G, March 12, 1974, p. 70.

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[132] See "Chronology of the Development of METCO" and METCO position paper on metropolitanization.

Offices and Officials Responsible for Education in Boston

Mayor - Kevin White

City Council - Louise Day Hicks
Albert O'Neill
Lawrence DiCara
Patrick McDonough
Joseph Tierney
Christopher Iannella
Frederick Langone
Gerald Leary - President
James Connolly

Boston School Committee - John J. McDonough
John J. Kerrigan
Paul R. Tierney
Kathleen Sullivan
Paul J. Ellison

Superintendent of Schools - William J. Leary

Deputy Superintendent - vacant

Secretary to the School Committee - Edward J. Winter

Chief Plant Engineer - John J. Doherty

Chief Structural Enginer - Anthony L. Galeota

Administrative Assistants to the Superintendent - Peter Horoshak
Thomas Heffernan
John Halloran
Herbert Hambleton
Robert McCabe

Business Manager - Leo Burke

Associate Superintendents:

Curriculum & Staff Development - John J. Kelly
Educational Planning & Budgeting _ Charles W. Leftwich
Personnel - Paul Kennedy
Supportive Services - Marion Fahey*
Special Services - Alice F. Casey
Career Education & General Support Services - vacant

Assistant Superintendents - Peter Ingeneri
Bernard Shulman
Rollins Griffith
Leo M. Howard
Helen Moran
John J. McGourty

Department of Crisis Prevention - Ann Foley

Office of Orientation & Integration - Dorothy Cash

Educational Planning Center - John Coakley

Director of Safety - Victor McGinnis

* Will take superintendent's position on September 1, 1975.

C. HISTORY OF SCHOOL DESEGREGATION

Boston has always been a forerunner in the field of public education. The Boston Latin School and the Quincy multi-classroom elementary school[133] were each the first of their kind in the United States. Efforts to achieve equal opportunity in education also began early. In 1846, for example, black parents complained to the Boston School Committee that:

> ....These separate schools cost more and do less for the children than other schools, since all experience teaches that when a small and despised class are shut out from the common benefit of any public institutions of learning and confined to separate schools, few or none interest themselves about the schools-neglect ensues, abuses creep in, the standard of scholarship degenerates, and the teachers and the scholars are soon considered and of course become an inferior class. [134]

Twenty years before the emancipation of the slaves, a black man named Benjamin Roberts, on behalf of his 5-year-old daughter, filed suit for damages against the city of Boston.[135] He alleged that the refusal of city officials, and particularly the Boston School Committee, to admit his daughter to an all-white school violated the doctrine of equality under the law.

133/ The Boston Latin School, founded in 1635, was the first public school in the Nation. The Quincy School, built in 1847, was the Nation's first multi-classroom public elementary school.

134/ See "Report of the Minority of the Committee of the Primary School Board on the Caste Schools" (Boston, 1846).

135/ Roberts v. Boston, 54 Mass. 198 (1849).

The case for the plaintiff was argued by Charles Sumner, a noted abolitionist, and Robert Morris, the first black to pass the Massachusetts bar examination. Although the court ruled against Roberts, an important precedent had been set, and the use of the courts for relief from educational discrimination was henceforth firmly implanted in Massachusetts history.[136]

The National Perspective

The decade of the 1960's was a time of growing tension and confrontation over the issue of civil rights.[137] The March on Washington in 1963 and demonstrations organized by civil rights groups, primarily in the South, revealed deep dissatisfaction with the civil rights records of local officials and aimed at pressuring the Federal Government to take action to protect the constitutional rights of minority Americans.

On July 2, 1964, Congress passed the landmark Civil Rights Act of 1964 which, in part, encouraged school desegregation by providing technical assistance to school boards in the preparation, adoption, and implementation of desegregation plans, and by establishing administrative enforcement proceedings which could lead to termination of Federal funds to school districts if noncompliance with the act were found.

136/ Massachusetts Acts of 1855, Ch. 156 later repudiated this decision by prohibiting discrimination in the public schools: "In determining the qualifications of scholars to be admitted into any public school...in the Commonwealth, no distinctions shall be made on account of the race, color, or religious opinions of the applicant or scholar."

137/ Developments during this period are discussed in the Commission's report, Twenty Years After Brown: The Shadows of the Past (June 1974).

Meanwhile, the courts had also become increasingly impatient with the slow pace of school desegregation.[138] In Bradley v. Richmond,[139] the United States Supreme Court ruled that "Delays in desegregating school systems are no longer tolerable." In Boston, the Federal district court ruled in Barksdale v. Springfield School Committee[140] that racial segregation, regardless of cause, was harmful to black children and violated the equal protection clause of the United States Constitution.

School Desegregation in Boston

School desegregation efforts also intensified in Boston during this period. In 1961, the NAACP and representatives of the black community asked that the Massachusetts Commission Against Discrimination (MCAD) undertake a study of the extent of segregation of Boston's public schools. MCAD's report concluded only that race was neither a factor in the assignment of children to schools,[141] nor a factor in the quality of educational opportunity. The NAACP and other black organizations rejected this conclusion and began to exert pressure on elected officials to acknowledge the existence of segregated schools. Confrontations were organized with the Boston School Committee, voter registration drives were held, and a school boycott was conducted by black high school students. These efforts and subsequent incidents continued to spotlight the issue of segregation and the responsibility of officials to act against it.[142]

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[138] Only 1.2 percent of black students in the 11 Southern States attended schools with whites in 1963-1964. Ibid., p. 10.

[139] 382 U.S. 103 (1965).

[140] 273 F. Supp. 543 (D. Mass. 1965).

[141] Massachusetts Research Center, "The Desegregation Packet: Chronology" (Boston: 1974).

In early March 1964, the Governor of Massachusetts appointed a 21-member, blue-ribbon advisory committee on racial imbalance and education, which was to conduct a study of racial imbalance in State schools. The committee in turn appointed two special task forces. One was to provide technical assistance and computation of data, and the other was to aid in formulating recommendations to the advisory committee.

The second act of the advisory committee was to conduct a racial census of the public schools, the first ever taken in Massachusetts. The results supported charges made by black leaders: 55 imbalanced schools existed in the State, 45 of them in Boston.[143] After the two committee task forces compiled and analyzed the data that had been gathered, the committee issued its report on April 15, 1965. Entitled "Because it is right - Educationally," the report emphasized that "...Racial imbalance represents a serious conflict with the American creed of equal opportunity... It does moral damage by encouraging prejudice within children regardless of their color...." In order to correct the existing imbalance, the advisory committee recommended that legislation be enacted. Four months later, with the support of a wide coalition of community leaders, the Racial Imbalance Act was signed by Governor John Volpe.

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[142] Ibid.

[143] Morgan v. Hennigan, 379 F. Supp. 410, 417 (D. Mass. 1974).

The Racial Imbalance Act

The Massachusetts Racial Imbalance Act,[144] which became law on August 18, 1965, was the first such desegregation law passed by a State in the Nation. The law mandated an affirmative policy by local school committees to eliminate racial imbalance in public schools. A school was defined as racially imbalanced if more than 50 percent of its students were nonwhite. An all-white school was not considered racially imbalanced. This definition held regardless of the nonwhite percentage of a community's total population.

Moreover, local school committees were commanded to take affirmative steps to correct such imbalance, regardless of its cause. As noted, the State board of education was authorized to provide incentives, including technical and other assistance in the formulation of plans to reduce or eliminate any imbalance. For example, if such plans called for the construction of schools which would reduce or eliminate imbalance, the State would, after an independent assessment, reimburse the city for 65 percent of the total cost.

Under the act, a municipal school committee was required to submit annual student enrollment data by race to the State board. On the basis of this data, the board was empowered to make specific recommendations to a school committee. If after 4 months the school committee did not submit a plan, the State board could order that its recommendations... "shall be the mandatory plan to be implemented by such school committee...."[145]

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[144] Mass. Gen. Laws, Ch. 71 § 37D and 37E and Ch. 15 §§ 1I, 1J, and 1K.

[145] Mass. Gen. Laws, Ch. 15, § 1I.

If a school committee still showed no sign of compliance with the act, the board could seek a court order to enforce its recommendations. The State commissioner of education was also empowered to notify the school district that State financial assistance would be withheld and any additional school construction prohibited until compliance was obtained.

The statute required local school committees to prepare their own plans. These plans could involve redistricting, new school construction, additions to schools, and "other methods." [146] As for the use of transportation, the act provided that:

> No school committee or regional school district committee shall be required as part of its plan to transport any pupil to any school outside its jurisdiction or to any school outside the school district established for his neighborhood, if the parent or guardian of such pupil files written objection thereto with such school committee. [147]

The act did not address the question of possible imbalance of faculty and administrative staff but dealt solely with numerical imbalance of students.

The limitations inherent in the Racial Imbalance Act soon became apparent. Perhaps most important was the absence of any requirement for specific guidelines for judging the efforts of local school systems to reduce racial imbalance. No criteria were set forth for determining when the State board was authorized to use its enforcement power. Hence, the actual power of the State board to compel prompt action was limited

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146/ Morgan, at 418.

146/ Ibid.

by the imprecision of the act's requirements and by the consequent ability of school committees to evade compliance. Even the board's authority to withhold funds was undermined during early court clashes between the State board and the Boston School Committee when funding that had been held up was ordered restored. In short, "The overall effect of the law require(d) the board to take a 'wait and see' stance while the local districts (took) the initiative for compliance." 148/ The State board was charged with administering a law that relied essentially on the good faith of local school committees.

As required by the act, Boston submitted its first data on racial balance in 1966. They revealed that 49 schools were imbalanced; i.e., had student enrollments which were more than 50 percent nonwhite. Dissatisfied with the Boston School Committee's subsequent lack of progress in submitting a plan to eliminate this imbalance, the State board in April 1965 ordered that State funds totaling $16.5 million be withheld from Boston.

Throughout the year negotiations between the State board and the Boston School Committee took place in attempts to develop an acceptable plan. In 1967, however, the school committee filed two suits, one contesting the board's action cutting off State funds, and the other questioning the constitutionality of the Racial Imbalance Act itself.

148/ Harvard Center for Law and Education, "A Study of the Massachusetts Racial Imbalance Act" (Cambridge: Harvard University, 1972), p. 118.

In January 1967, the Massachusetts Supreme Judicial Court ordered the school committee to submit a plan within 90 days or have funding permanently denied. After a series of meetings with officials of the State board's task force on racial imbalance, the school committee developed and submitted "The 1966-67 plan toward the elimination of racial imbalance in Public Schools."[149] The State board of education accepted the plan as a first step, noting that further State recommendations would ultimately have to be adopted for the plan to be totally acceptable. It then released the previously withheld funds. On June 9, 1967, the Massachusetts Supreme Judicial Court unanimously rejected the Boston School Committee's contention that the Racial Imbalance Act was unconstitutional and also observed that, "The Committee seems bent on stifling the Act (before) it has a fair chance to become fully operative."[150]

The 1966-67 plan, relying mainly on "open enrollment" and "controlled transfer" policies, was modified and updated several times, but it led to little progress. In fact, a census taken in October 1970 showed that the number of students in imbalanced schools had increased by 2,400 from the previous year.

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[149] Massachusetts Research Center, "Desegregation Packet."

[150] School Committee of Boston v. Board of Education, 352 Mass. 693, 227 N.E. 2d. 729 (1967).

In 1971, the State board's bureau of equal educational opportunities notified the school committee that a new racial balance plan was required. After negotiations between school committee members and the State board, the "Fourth Stage Plan towards the elimination of Racial Imbalance in the Public Schools" was adopted by the school committee and approved by the State board for implementation in September 1971.

The Fourth Stage Plan, however, was also fatally flawed. One of the exceptions to the plan's controlled transfer policy, known as a hardship transfer, was openly referred to at a school committee meeting as an "escape clause" and a "big out" for whites wanting to avoid desegregation.[151/] This time the State board reacted swiftly. Over $200 million in school construction funds was frozen, and $14 million in State aid was withheld from the city.[152/] The school committee responded by filing suit in superior court challenging the State board's action. In September, schools opened with more than 26,000 nonwhite pupils still attending imbalanced schools.

At this point, the U.S. Department of Health, Education, and Welfare entered the desegregation controversy. On November 30, 1971, HEW's Office for Civil Rights informed the committee that certain educational programs were being administered in a discriminatory manner in violation of Title VI of the Civil Rights Act of 1964.

151/ Morgan, at 89, 90.

152/ Massachusetts Research Center, "Desegregation Packet."

Negotiations over the means for ending the violations ensued.

In March 1972, attorneys for the Boston chapter of the NAACP filed suit in Federal district court on behalf of a number of black parents against the Boston School Committee and the Massachusetts Board of Education. In a 360-page brief, the NAACP lawyers alleged substantial evidence of discriminatory policies and practices employed by the school committee in the areas of open enrollment, controlled transfers, redistricting, facilities utilization, faculty assignments, and hiring and recruitment.

On June 22, 1971, the Massachusetts Commission Against Discrimination (MCAD), which had conducted hearings on a discrimination complaint, issued its findings.[153] It concluded that open enrollment was administered with discrimination on the basis of race and color and issued a cease-and-desist order.

On December 18, 1972, the superior court ordered the State board to restore the funds it had earlier cut off because the school committee was in literal compliance with the Racial Imbalance Act even though compliance was minimal.[154] On appeal, the Massachusetts Supreme Judicial Court affirmed the superior court's decision on procedural grounds rather than upon all the circumstances of imbalance in Boston.[155]

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[153] MCAD ex rel. Underwood v. Boston School Committee, No. EDXIV-1-C.

[154] Morgan, at 418.

[155] School Committee of Boston v. Board of Education, 1973 Mass. Adv. Sh. 161, 292 N.E. 2d 338 (Feb. 2, 1973).

On February 15, 1973, the supreme judicial court declared that efforts to achieve racial imbalance must be intensified, and ordered the State board to initiate hearings to develop means to that end.[156] The board appointed a hearing examiner and commenced hearings on March 20, 1973. Two months later,[157] the hearing examiner released findings which recommended that the State board reject the proposals offered by the Boston School Committee at the hearings and instead adopt a plan developed by the advisory committee task force on racial imbalance.

The State Board Plan

The plan developed for the State board was the "Short-Term Plan to Reduce Imbalance in the Boston Public Schools." Designed to meet Racial Imbalance Act requirements, it was necessarily limited in its scope and aimed at meeting only short-term, numerical goals.[158] This plan called for a reduction in the number of imbalanced schools from 61 to 42 by redistricting, reorganizing of the grade structure to an elementary

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[156] Ibid.

[157] During this same period, an administrative law judge ruled in the HEW compliance proceedings that de jure segregation in Boston put the city in noncompliance with Title VI of the Civil Rights Act of 1964. The finding would deprive Boston of all new Federal financial aid.

In July 1973, Governor Sargent vetoed an antibusing bill sent him by the Massachusetts General Court (the State legislature), after being advised by the supreme judicial court that it would be unconstitutional. (Opinion of the Justices, 1973 Mass. Adv.Sh. 1027, 298 N.E.2nd 840 (July 10, 1973).

[158] For example, the plan did not deal with school construction, faculty imbalance, or other long range issues.

(K-5), middle (6-8), and high school (9-12) system,[159/] and by the busing of approximately 19,000 students to different schools.

The Racial Imbalance Act's restrictions on intradistrict busing prevented elimination of imbalance in some schools, and planning options were rejected that would achieve racial balance but would cause overcrowding in the process. Communities such as Charlestown, East Boston, and the North End were, therefore, excluded from the plan, which affected only those areas where black and white students lived in close proximity.

On June 25, 1973, the State board of education ordered implementation of the Short-Term Plan in September 1974. The school committee appealed this order, in part because of its busing provision, but the State supreme judicial court upheld the order, stating that, "It is high time that such cooperation (between the school committee and the State board) commence without the delay inherent in further resort to the courts." [160/]

[159/] High school districts were created for the first time for 10 of the city's 17 high schools; the remaining 7 were citywide high schools. The 10 other citywide high schools had previously received students on a feeder system basis. In drawing new districts, an attempt was made to incorporate recognizable neighborhoods, following geocode boundaries (areas defined by the police department for census purposes, containing from 5-15 residential blocks) and using electoral and service delivery definitions.

[160/] School Committee of Boston v. Board of Education, 1973, Mass. Adv. Sh. 275, 131.

In May 1974, the Massachusetts General Court voted to repeal the Racial Imbalance Act. Governor Sargent, however, vetoed the bill and submitted his own amendments to the act. Although opposed by the State board and the NAACP, the amendments were ultimately passed in a revised form and enacted into law as Chapter 631 of the Acts of 1974, an Act to Amend the Racial Imbalance Law. The revised act removed the compulsory aspects of the 1965 act, but guaranteed blacks the chance to transfer from majority-black schools to white schools in other parts of the city. The State would provide some funding to cover the transportation costs of such transfers.

The District Court Rules

On June 21, 1974, the Federal district court issued its ruling on the NAACP suit which had been filed in March 1972. In a comprehensive decision which reviewed the history of desegregation efforts in Boston, the court found that "racial segregation permeates schools in all areas of the city, all grade levels, and all types of schools."[161] School authorities had "knowingly" carried out a "systematic" program of segregation affecting students, teachers, and school facilities and had "intentionally" brought about or maintained a dual school system.[162]

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[161] Morgan, at 424.

[162] Ibid., at 410.

Segregatory policies had been pursued in six principal areas: (1) facilities utilization and construction of new structures;[163] (2) districting and redistricting;[164] (3) feeder patterns;[165] (4) open enrollment and controlled transfers;[166] (5) faculty and staff;[167] and (6) vocational and examination (college preparatory) schools.[168] While maintaining such policies, the school committee had evaded compliance with the State's Racial Imbalance Act by a method of "formalistic compliance followed by procrastination and evasion on technical grounds."[169] The State board of education was "simply outmaneuvered by the city defendants and frustrated by their intransigence and frequent bad faith."[170]

In describing the record of discriminatory policies followed by the school committee, the court observed that some policies had been maintained despite the committee's realization that they were educationally harmful to white, as well as black, students. For example, some white schools, including South Boston High, were extremely overcrowded while various black schools operated below capacity. Thus,

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[163] Ibid., at 425-32.

[164] Ibid., at 432-41.

[165] Ibid., at 441-49.

[166] Ibid., at 449-56.

[167] Ibid., at 456-66.

[168] Ibid., at 466-69.

[169] Morgan, at 476. The court stated that school committee efforts to evade Racial Imbalance Act requirements served to "illumine their intent with respect to school segregation generally." Ibid at 417.

[170] Ibid., at 476.

> In alleviating overcrowding at Cleveland Junior High, 91 percent white, students were assigned to the already overcrowded and relatively distant white South Boston High. There were closer schools with available seats, but these schools were identifiably black. Similarly when it would have reduced racial segregation, the defendants ignored other opportunities to decrease overcrowding by altering school assignments, viz. the group assignment and busing of black students to the Weld school, nearly every use of portable classrooms and the opening of the Lee school. 171/

The court noted the school committee's two major defense arguments - that school segregation in Boston was the inevitable consequence of segregated housing patterns and an increase in the city's black population for which the committee was not responsible, and that the committee had adhered to a neighborhood school policy which was constitutionally valid regardless of any segregative consequences.172/ After pointing out that neither argument had any relevance to committee practices with respect to faculty and staff, open enrollment, and controlled transfer, or feeder patterns,173/ the court stated:

> First, it is now generally recognized that school officials' practices may have a substantial impact upon housing patterns; second, when school officials have followed for at least a decade a persistent course of conduct which intentionally incorporated residential segregation into the system's schools, that conduct is unconstitutional; and third, when school districting and a neighborhood school system are fraught with segregative exceptions, neither defense need even be considered. 174/

171/ Ibid., at 426.

172/ Ibid., at 469.

173/ Ibid., at 470.

174/ Ibid.

The court noted the interaction between schools and neighborhoods, which have a "reciprocal effect upon one another."[175] A school "will cause the racial composition of the neighborhood to shift and vice versa." Moreover, the school committee was "not ignorant of segregated housing patterns and projects in Boston."[176]

> In fact the defendants had unusually detailed knowledge of existing residential segregation and forecasts for changes because of a study commissioned by them in 1962. This study, the Sargent Report, predicted with 95% accuracy the size of the black population and those neighborhoods in Boston which would become predominantly black by 1970. These predictions were confirmed by the 1970 United States Census. The existence of this report is a sufficient answer to defendants' intimations that they were surprised by shifting racial concentrations which frustrated their racial balance plans.[177]

As for the neighborhood school policy, the decision stated that some school committee policies--extensive busing, open enrollment, multi-school districts, magnet schools, citywide schools, and feeder patterns--were "antithetical" to a neighborhood school system, which was "so selective as hardly to have amounted to a policy at all."[178] In fact, if observed, the "neighborhood school has been a reality only in areas of the city where residential segregation is firmly entrenched."[179]

Finally, the court observed that the school committee's line of defense was virtually identical to that of the defendant school board in the Denver school desegregation case on which the United States Supreme Court had ruled a year earlier. In that decision, it was noted, the Supreme Court had stated:

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[175] Ibid., at 470.

[176] Ibid., at 471.

[177] Ibid., at 471.

[178] Ibid., at 473.

[179] Ibid., at 473.

> We have no occasion to consider in this case whether a "neighborhood school policy" of itself will justify racial or ethnic concentrations in the absence of a finding that school authorities have committed acts constituting de jure segregation...the mere assertion of such a policy is not dispositve where, as in this case, the school authorities have been found to have practiced de jure segregation...of the school system by techniques that indicate that the "neighborhood school" concept has not been maintained free of manipulation. 180/

The court stated in its decision that "No amount of public or parental opposition will excuse avoidance by school officials of constitutional obligations." 181/ It ordered the school committee to proceed with implementation of the Short-Term Plan in September 1974, as originally ordered by the State court. The long legal battle over school desegregation in Boston was drawing to a close. 182/

180/ Keyes v. School District. No. 1, 413 U.S., 212 (1973).

181/ Morgan, at 482.

182/ On May 13, 1975, the United States Supreme Court upheld the lower court's decision by refusing to hear the school committee's appeal. Morgan v. Hennigan, No. 74-1188, 43 L.W. 3600,--U.S.--(1975).

II. THE DESEGREGATION PLAN

Summary

Desegregation of Boston's public schools began with implementation of the State board's Short-Term Plan in September 1974. That plan, designed to meet the limited requirements of the Massachusetts Racial Imbalance Act of 1965, was the basis of Phase I of a total desegregation effort. It did not provide for faculty desegregation or new educational programs.

Redistricting and pupil transportation were the principal desegregation techniques involved in the Phase I plan, which was built upon the K-5, 6-8, and 9-12 grade structure. High school districts were created for the first time for 10 of the city's 17 high schools; the other 7 were to become citywide high schools. As the Racial Imbalance Act prevented busing of students out of their own districts and included restrictions on busing on safety grounds, only 80 of the city's approximately 200 schools were affected. Some areas, such as Charlestown, East Boston, and North End, were excluded altogether. Phase I included only those areas of Boston where black and white students live in close proximity.

On October 31, 1974, the court ordered the school committee to prepare a Phase II plan for the total desegregation of Boston's schools in September 1975. In light of the subsequent failure of the committee to submit an acceptable plan, the court appointed four Masters to propose one. The plan which resulted from their deliberations was issued on April 17, 1975.

The Masters' Phase II plan, altered in some respects by the Federal court, affected schools in all areas of the city except East Boston. Revision of attendance zones and grade structures, construction of new schools and the closing of old schools, and a controlled transfer policy with limited exceptions were used in order to minimize mandatory transportation.

The plan created eight community school districts and one citywide district. The community school districts each had at least one high school, generally more than one intermediate school, and several elementary schools. The citywide district has 22 "magnet" schools designed to draw pupils from throughout the city.

A formula was provided by which students could apply to attend a school within their community school district, but no specific school could be selected. Assignment at a community district school would be guaranteed elementary and intermediate school students. High school students could choose among three citywide high schools and a community district high school. High school students could be required to attend citywide high schools if too many pupils applied to community district high schools.

Additional students would be transported under Phase II. Bus travel times would average between 10 and 15 minutes each way, and the longest trip would be less than 25 minutes. The school committee is to submit a final transportation plan to the court by July 7, 1975.

An important feature of the Phase II plan is the pairing of local colleges and universities and community institutions and organizations with specific schools in an effort to build attractive and innovative educational programs at these schools. Harvard University, for example, would work with the staff and students of Roxbury High School, and Liberty Mutual Insurance Company would work with Charlestown High School.

Another significant dimension of Phase II is the inclusion of the community in the school desegregation process at all levels of the school system. Parent and student councils are to be formed at various schools and for each community district, and a Citywide Coordinating Council (CCC), with 40 members representing a cross-section of Boston's population, will serve the court as the primary body monitoring implementation of the plan.

Time is short for completion of planning arrangements for Phase II implementation this September. Moreover, there appears to be continuing public misunderstanding about the cost to Boston taxpayers of the plan and the extent of transportation involved.

Phase I

The key feature of the Short-Term Plan was its correction of student racial imbalance in schools with nonwhite enrollments of over 50 percent. Redistricting and some busing were the principal tools to be used. As the plan was prepared to meet only the limited requirements of the Racial Imbalance Act, no effort was made to desegregate faculty or staff, nor was attention given to possible education programs that might facilitate desegregation while simultaneously improving the quality of education in city schools.

Pursuant to the implementation of this plan as Phase I of school desegregation in Boston, the court issued a series of orders[183] covering everything from assignment of faculty to safety restrictions (e.g., crowds would be permitted to stand no nearer than 100 yards). The court also ordered creation of racial-ethnic parent councils in any desegregated school having 10 or more black students or 60 or more Asian American or Spanish speaking background students. Each such intermediate or high school was also directed to establish a racial-ethnic student council. Membership on these councils was racially balanced and elected by and from the school district. Also mandated was a citywide parents' advisory council (CPAC), composed of two members from each of the six area school districts in Boston. The purpose of these councils was to monitor racial problems arising at the schools and create a means of communication among parents and students that might facilitate solutions to such problems. School records pertaining to a particular problem were to be made available to the councils to aid their efforts.[184/]

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[183] A chronology of legal developments during Phase I is included as Appendix C to this report.

Phase II

On October 31, 1974, the district court ordered the school committee to submit a total desegregation plan by December 16, 1974, for implementation in September 1975. The committee then directed the educational planning center to prepare a plan. The center produced a plan by December 16, but the school committee neither approved nor disapproved it and refused to submit it to the court.

Attorneys for the school committee, therefore, submitted the center's plan on their own volition; they then requested and received permission from the court to be removed from the case. The school committee then agreed to submit a plan of its own by January 27, 1975, and the educational planning center was directed to prepare the new plan.

As developed, the two plans were similar, differing only in the greater amount of freedom of choice allowed by the school committee. The emphasis in the December 16 plan was on educational programs, rather than on enrollment numbers. The plan provided for revised methods of instruction, including open-space classrooms, ungraded

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[184/] Morgan v. Kerrigan, (Civ. Action No. 72-911-G), sub nom, Morgan v. Hennigan, Memorandum Order Establishing Racial-Ethnic Councils (Oct. 4, 1974).

schools, and approximately 50 zone and citywide magnet schools. The plan provided for parent-student selection of one of these various options to achieve voluntary desegregation; but, after this first stage of assignment by choice, students would be assigned as necessary to bring about desegregation.[185]

The plan was vague, however, on precisely how this would be accomplished. While it promised desegregation, the plan did not specify how students would be assigned in the likely event that initial choices would leave some schools segregated. Nor did the plan state what criteria would be used to determine whether a school was, in fact, segregated. Finally, the plan unduly burdened minority students by closing more schools in minority neighborhoods than elsewhere and by busing more minority than white children.

Both the December 16 and January 27 plans relied essentially upon a freedom of choice policy to achieve desegregation: no attempt was made to establish projected percentages for black and white student enrollments, and no guarantees were written into the plan that might persuade the court that the school committee was making every effort to eliminate segregation in city schools. In view of these basic deficiencies and the apparent continuing refusal of the school committee to support a constitutionally acceptable plan, the court appointed two education experts[186] to design a workable plan. At this point, the court had before it three desegregation proposals: the two designed by the educational planning center for the school committee; and a third submitted by the plaintiffs, which was a straight numerical plan dependent solely on redistricting to achieve desegregation and paying no attention to educational programs.

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[185] City of Boston Public Schools, "Student Desegregation Plan," Dec. 16, 1974, VI-I.

[186] Morgan v. Kerrigan, supra, Order Appointing Experts (Jan. 31, 1974).

The court then appointed a panel of four Masters to hear testimony and make recommendations on all plans submitted for the court's consideration.[187/] The final "Report of the Masters to the Court," known as the Masters' Plan, was based on the proposals of the two experts. It was submitted to all parties for comment and made public on March 31, 1975.

The Masters' Plan

The Masters' proposed plan attempted to achieve desegregation through the creation of community district schools, with racial percentages reflecting the racial makeup of those districts, and additional citywide magnet schools, designed to attract students out of those districts. Parents and students were permitted five choices: (1) assignment to a community school district, with the specific school *not* named; (2) METCO or a similar voluntary program; (3) preference for the same school if assigned there under Phase I of school desegregation; (4) a citywide magnet school; (5) a special program at another community district school, contingent on racial balance of that program.[188/]

[187/] Ibid.; Designation of Masters and Notice of Hearing on Draft Order (Feb. 4, 1975).

[188/] Report of the Masters in Morgan v. Kerrigan (Mar. 31, 1975) at 35.

Ten districts were created--9 community school districts and 1 citywide district. The racial mix varied among the community school districts--from 25 percent white in the Roxbury area and to 95 percent white in East Boston, and from 50 percent black in Roxbury to 3 percent black in East Boston. All students were guaranteed a seat in one of the schools in their community school district.[189]

There were some obvious flaws in this plan if all students chose to attend a school in their district: First, the schools would be overcrowded; second, the citywide magnet schools would be empty; and, third, the racial percentages within the schools would be as, or more, disparate as those in the district, depending on how assignments to schools were made within that district. In the final analysis, the court decided that the Masters' Plan was not workable for two reasons: The guarantee to every student of a seat in his or her community district was not feasible, and the racial variance was too great among districts. The court remedied these flaws, first in its revision of the Masters' Plan and ultimately in the final Phase II plan.

The court issued draft revisions of the Masters' Plan on April 17, 1975. These revisions made some changes in recommended school closings and ordered a more comprehensive, citizen-monitoring system, which has been included in Phase II. Most importantly, however, the revisions addressed the problem of numerical balance; the 10 districts provided in the Masters' Plan were consolidated to form nine districts--eight community districts and one citywide. Racial percentages within the districts were brought more closely in line with the court's preference for no more than 60 percent, and no less than 40 percent, of black or white students at any school. The only district unaffected was East Boston with 95 percent white, and 3 percent black, student enrollments.[190] After hearings on these revisions, the court on May 12, 1975, issued the first part of its final Phase II plan for implementation in September 1975.

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[189] Ibid. at 8, 22, 35.

Phase II Provisions

Phase II is designed to desegregate Boston's public schools while attempting to improve, by innovation and attention to special needs, the quality of education for students in all public schools. Under Phase II, each of the eight community school districts has at least one high school, generally more than one intermediate school, and several elementary schools.[191] The citywide school district has 22 schools, each of which is to be a "magnet" school offering specialized and distinctive programs designed to attract students from all parts of the city.[192] In order to consolidate and reorganize existing facilities in Boston for more efficient use of space, 20 school buildings will be closed at the end of the 1974-75 academic year, and 10 school buildings previously closed will not be reopened.[193]

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[190] Morgan v. Kerrigan, *supra*, Draft Revisions of Masters' Report (Apr. 17, 1975) at 1, and table A.

[191] Phase II Plan, pp. 11-42.

[192] Ibid, p. 43.

[193] Ibid, p. 7.

As described in the Phase II plan, the purposes of the community school districts are:

(a) to accomplish desegregation of the schools in conformance with constitutional principles;

(b) To correlate the programs and operations of public educational services with the needs and interests of residents and students within a natural unit or combination of units of the residential communities of Boston;

(c) to enable parents and students to plan a coherent sequence of learning experiences within an identifiable series of schools that culminate in Community District High Schools;

(d) to minimize the costs and burdens of transporting students, staff and materials between distant points in the city; and

(e) to utilize existing facilities fully and efficiently.[194]

Each district will have a community superintendent and a council of all principals in that district. The policy of uniform grade progression of K-5, 6-8, and 9-12 will continue from Phase I: kindergartens will be included in the desegregation process for the first time under Phase II.[195]

Special needs have been recognized in the Phase II plan, and space, materials, and staff will be provided for students who qualify for the Section 766 special needs program. Bilingual needs have also been recognized, and students requiring bilingual education will receive first priority in the assignment process to ensure that they are assigned in sufficient groups to schools with specified bilingual programs.[196]

Each district is to have autonomy in developing curriculum, teaching programs, and extracurricular activities that are responsive to the needs of parents and students in the district. The intent of the plan is to encourage program coordination among the schools in the district, from kindergarten through the local high school. The plan also states that each high school shall serve as a multipurpose community education facility, available to adults as well as children.[197/]

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[194] Phase II Plan, p. 1.

[195] Ibid., pp. 2,4.

[196] Ibid., pp. 4-5.

The student enrollments at each school shall reflect the public school student population living in the community school district.[198/] The representation of each ethnic group within a school may vary up to 25 percent more, or less, than that group's percentage of the district population.[199/] For example, white students represent 53 percent of the South Boston student population; the white student representation in the South Boston schools could range between 66 and 40 percent.

The citywide school district is structurally the same as the community school districts, but its schools are designed to draw from the entire city and have specialized course emphases to enhance this goal. Among these schools are the three examination schools (the two Latin schools and Boston Technical High School), plus 14 other special

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[197/] Ibid., p. 4.

[198/] East Boston is the only community school district not desegregated under Phase II. The rationale for this exclusion is explained in Morgan v. Kerrigan, supra. Memorandum of Decision and Remedial Orders (June 15, 1975) at 52-55.

[199/] Phase II Plan, p. 72.

emphasis schools.[200]

The racial balance in all citywide schools shall be reflective of the total student population in the Boston public school system, with a 5 percent leeway in white or minority enrollments. For example, white students represent 51 percent of the city's students, so white enrollment could number from 56 to 46 percent at any citywide school. Black and other minority students, who are 49 percent of the city's total school enrollment, may range from 54 to 44 percent of enrollment at individual, citywide schools. Other minority students may not represent more than 30 percent of any citywide school.[201] Specific citywide schools are exempted from this formula: the three examination schools must enroll 35 percent minority students in their September 1975 entering classes;[202] the Hernandez elementary school has a citywide bilingual program and may enroll up to 65 percent Spanish speaking students (the remaining seats must reflect the city's white and other minority populations).[203]

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[200] Ibid., p. 43.

[201] Ibid., p. 75.

[202] Ibid., p. 48.

[203] Ibid., p. 76.

Community Institution Involvement

The unique element of Phase II and what some consider "the heart of the plan" is the involvement of Boston's various organizations with public school education--institutions of higher education, the business community, labor organizations, and the arts. All of these groups and institutions "have committed themselves to support, assist, and participate in the development of educational excellence within and among the public schools in Boston."[204/]

The court has matched 20 colleges and universities in the Greater Boston area with particular high schools, both community and citywide, and with selected lower schools and special programs. Other academic institutions may be added in the implementation process. Twenty businesses have been paired with particular schools to supplement academic theory with business practicability. Labor organizations have indicated a willingness to support and assist in occupational, vocational, technical, and trade education; some program planning has already begun. The Metropolitan Cultural Alliance (110 cultural institutions are members)

[204/] Phase II Plan, p. 50.

will continue and expand its work with several citywide schools and some community district schools.[205]

Examples[206] of this pairing are:

In West Roxbury Community District 3, Boston College will work with all the district schools, including Roslindale High School, and New England Merchants Bank will work with Roslindale High School.

In Dorchester Community School District 5, Boston State College, collaborating with the University of Massachusetts, will work with all Dorchester community district schools, including Burke High School, and New England Mutual Life Insurance Company will work with Burke High School.

In South Boston Community School District 6, University of Massachusetts, Boston, will work with all schools, including South Boston High School, and Gillette Company Safety Razor Division will work with South Boston High School.

In Madison Park Community School District 7, Bunker Hill Community College will work with the Charlestown School components of the Madison Park district, giving special emphasis to the development of a retailing education program and other cooperative programs between Charlestown High School and the college. Harvard University will work with the staff and students of Roxbury High School, part of South Boston High School in 1974-75, paired with Charlestown in

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[205] Ibid., p. 51.

[206] Ibid., pp. 54-58.

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the Madison Park district for 1975-76.

The role played by these institutions is by no means completely developed in the plan as presently written. Goals are set, and intentions stated. In broad terms it is hoped that these institutions will work with administrators and teachers in developing curriculum, training teachers, and providing whatever help individual schools and teachers request. The colleges and universities are expected to be particularly helpful in developing innovative and attractive magnet programs so that the citywide schools will be better able to attract students from the entire city.

Student Assignment

Two steps and a number of variables are involved in the student assignment process under Phase II. First, a selection preference must be made by the student and his or her family; the selection is then communicated to the Boston School Department, which has sole authority to assign students to schools under Phase II. Second, the Boston School Department must assign each student, balancing the student's preference against such variables as special needs, grade level, and numerical balance within the community or citywide district to which the student is being assigned.

207/ Further, Northeastern University will work with the Madison district at all levels. Liberty Mutual Insurance Company, and the Stop and Shop Companies, Inc., will work with Charlestown High School.

To help them make an informed selection, each student's family was provided in May 1975 with an "Orientation and Application Booklet" prepared by the school department, under the court's supervision, and published in seven languages. This booklet describes each of the citywide schools and the programs they offer, explains the preference selection to be made by the student, and details how school assignments will be made by the school department. Staff of all schools are urged to assist in explaining this process to families and students during the selection process, and a guidance and information center is to be located in each community school district office.[208]

Each student application must include the student's age and ethnicity (white, black, Hispanic, Oriental, American Indian, or other); address of last residence; last school and grade attended; special needs; Title I eligibility; home language; plus any other data the school department staff may need to make an assignment.[209] In making a selection, the student or parent must opt for (1) attending school within the community district (students will be assigned to specific schools based on geocode and racial balance; any preference expressed for a particular school will be disregarded) or (2) attending a specific, citywide school, giving more than one preference where possible for flexibility of assignment.[210]

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[208] Phase II Plan , pp. 44-45.

[209] Ibid., p. 45.

[210] Ibid., p. 46.

Although all elementary and intermediate students are guaranteed a seat somewhere in their community school district, they may not select a particular school in their district. They will automatically be assigned within their district if they so select, or by default if they do not return their application form to the school department. They may, alternatively, select a citywide school, with assignment based on special programs available and ethnic balance.

In all cases (except East Boston), community district high schools do not have enough seats to accommodate the number of high school students in their districts. In seven of the eight community districts, it will, therefore, be necessary for some high school students to attend citywide high schools, either by choice or by mandatory assignment. Exceptions are made, at the high school level, as follows: All 12th and 13th grade students may go to the high school of their choice within their community district; all 11th, 12th, and 13th grade students who are in special vocational programs may continue through to completion; students in any racial or ethnic group may be assigned to a particular school to form a group of at least 20; and bilingual and special needs will be given special consideration.[211/]

Students will be assigned to citywide schools on the basis of their application preference, dependent always upon racial balance. Twenty-five percent of the seats in each citywide school will be reserved for students residing in the community district where the

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[211/] Phase II Plan, p. 73.

citywide school is located. If a citywide school is oversubscribed, the priority of assignment will be: First, applicants residing in the district, up to 25 percent; second, applicants who attended the school last year; third, students from oversubscribed community district schools; and fourth, all others. Exceptions to this assignment policy are as follows: all 12th graders who attended the school the previous year may return this year,[212] and the Hernandez elementary school, a special bilingual school, which may enroll 65 percent Hispanic students;[213] students attending the three examination schools in 1974-75 may return, but the seventh and ninth grade classes entering the fall of 1975 must be 35 percent minority.[214]

School department figures show approximately 85,000 students enrolled in Boston public schools; there are seats for 18,590 of those students in 22 citywide schools, which can be filled either by parent-student option or by mandatory assignment at the high school level from oversubscribed community district schools. The remaining 66,000 students will be able to attend school in the community districts where they live, but they will not have a choice as to which school within the district they will attend. No information on student assignments will be available except by official notice mailed to the student by the school department.

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[212] Ibid., p. 75.

[213] Ibid., p. 76.

[214] Ibid., p. 48.

The Phase II plan gives specific information for each of the nine school districts, listing all the schools in each district and their individual seating capacities. Projected figures for each district's student population at the elementary, intermediate, and high school level are also given.

For example, West Roxbury Community School District 3 has one high school, Roslindale High, with a seating capacity of 1,020; the total high school age population for the district is 3,193. Roslindale High School can, therefore, currently accommodate only one-third of the district's high school students; two-thirds of the students will need admissions or assignments to citywide high schools in September 1975. A citywide high school is projected for this area; when completed, 25 percent of its seats will be reserved for district residents. This will decrease, but not eliminate, the need for some district high school students to attend citywide high schools out of their districts.[215/]

Dorchester Community School District 5 has two high schools, Dorchester and Burke. Burke's seating capacity is 1,100; combined high school seating capacity is 2,650. The high school age population is 4,130, requiring that 44 percent of those students attend citywide high schools. No increased seating is projected for this district at the high school level.[216/]

[215/] Phase II Plan, pp. 19-21.

[216/] Ibid., pp. 27-29.

South Boston Community District 6 has one high school, located in the main South Boston High School facility and in the L Street Annex (ninth grade only), with seats for 1,500 students. The high school population is 2,635; 43 percent of those students will need admissions or assignments to citywide high schools. No increased high school seating capacity is projected for this district.[217]

Madison Park Community School District 7 has two high schools, Charlestown High and Roxbury High (part of the South Boston High School complex in 1974-75). The combined seating capacity is 1,550; the high school population is 2,488. Approximately 38 percent of the district's high school students must attend citywide high schools. Charlestown High will be replaced with a new facility in 1977, but no projected seating capacity figures are given in the plan. There is a special vocational education program at Charlestown so that, under the plan's excepted categories, all 11th, 12th, and 13th grade students currently enrolled in that program may continue and complete their studies. The racial balance figures for the Madison Park District are 40 percent white, 35 percent black, and 25 percent other minority. It is not clear in the plan whether the excepted vocational students must be counted as part of their ethnic group in determining the school's racial balance or whether the racial percentages need only include students other than the excepted vocational students.[218]

217/ Ibid., pp. 31-33.

218/ Ibid., pp. 35-37.

Parental and Community Involvement

Recognition is given in the Phase II plan to the special role that the community can play in the desegregation process. Specific responsibility for monitoring ongoing desegregation efforts is, therefore, assigned to a court-appointed, 40-member, citywide coordinating council (CCC), which will be multiracial and will include parents and persons from educational, business, labor, civic, religious, and community organizations. Two of the 40 will be representatives of the citywide parents advisory council first set up under Phase I.

The CCC will be the primary body monitoring implementation on behalf of the court and will report monthly: It will have the authority to hold hearings, to inspect school facilities, and to publish reports. By fostering public awareness and involvement, it is hoped that the CCC will be able to avoid some of the difficulties caused by lack of preparation and community education associated with Phase I. Because the Community Relations Service (CRS) of the Justice Department functioned in a monitoring capacity to the court during Phase I, it will provide advisory assistance to the CCC. The CCC will have a full-time staff director and clerical staff, paid by the city of Boston.[219/]

Working with the CCC will be nine community district advisory councils, one for each of the nine community school districts. Each of these councils will include 10 parent representatives elected from the membership of the racial-ethnic parents' councils (RPC)

[219/] Phase II Plan, p. 91.

established early in Phase I. Limited by the court to a membership of 20, each council will also include two student members, elected from the student biracial committees set up during Phase I, and remaining members nominated by the CCC and appointed by the court to reflect the community served by the district advisory council. An office and secretarial staff will be provided for these councils in each of the nine districts. Each district advisory council will act in an advisory capacity to the school department staff in its district and will monitor, locally, the implementation of Phase II.[220/]

Carried over from Phase I are the racial-ethnic parents' councils and their student counterparts: additional schools that in 1975 meet the criteria for establishment of RPC's shall also elect such councils, which will continue to deal with racial problems in the schools. Also carried into Phase II is the citywide parents' advisory council (CPAC), which will continue to provide support for the local RPC's. CPAC membership will expand to include representatives of the three additional districts created by the Phase II plan. Two Hispanic and two Asian American representatives to the CPAC will be elected by and from their ethnic groups.[221/]

Transportation

Under Phase II, bus transportation will be provided for students in the eight community school districts and in the citywide district

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[220/] Ibid., pp. 92-3.

[221/] Ibid., p. 94.

for students who are assigned to elementary schools that are more than 1 mile from home; for middle school students who live more than 1½ miles from the school; and for students assigned to high schools who live more than 2 miles from the school.[222] The reason for such transportation may be distance, safety, controlled transfer, or a combination of these. The court has suggested, however, that for high school students assigned to schools within ready reach of Massachusetts transit, the school department may fulfill its obligation by providing for free use of buses and subways.

Finally, the Phase II plan directs the school superintendent to submit detailed reports to the court in February and July of 1976. These reports will review the desegregation process in Boston's schools with respect to such matters as student academic performance, student absenteeism and suspension, student transfers, special programs, staff training, busing safety and efficiency, and the status of educational facilities throughout the city.

Phase II: Remaining Problems

Although comprehensive in its attempt to ensure desegregation and promote quality education, there are several apparent problems with the Phase II plan. The student assignment process is complicated, from at least two points of view. Parental and student understanding of the options and how to choose among them is crucial to the assignment process. The educational planning center, within the school department, is responsible both for informing parents and students of their options and for making student assignments. In order to make those assignments, the center must have correct data from parents and students and must match that data against racial percentages in both community district and citywide district schools. The fact that numbers of high school students cannot be assigned to their community districts and must either opt for, or be arbitrarily assigned to, a citywide school may well create problems if students do not wish to attend the schools to which they are assigned.

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[222] Approximately 21,000 additional students will be transported. The average bus ride within any community district will be 10-15 minutes. The longest trip will be less than 25 minutes. A specific transportation plan is to be submitted to the court by July 7, 1975. (Ibid., pp. 80, 82).

Under optimum conditions this process would require time, good faith efforts, and cooperation. Although detailed information and application forms have been sent out to parents and students, it remains to be seen whether assignments can be worked out, and students informed accordingly, by September. It is possible that the opening of school may, therefore, have to be delayed again this fall.

Further, the question of costs has been raised by some in Boston as an obstacle to implementing Phase II next September. The estimated cost of busing is $7.6 million for 1975-76, compared to the total annual school budget of $160 million. It has not been made clear to the public that the State, consistent with State law, is authorized to pay virtually all costs of transportation for desegregation.

A number of advisory councils now exist, some carried over from Phase I, and some newly created. Their authority is ill-defined and may require further clarification as between the various councils , as well as in relation to the desegregation process.

To be sure, magnet schools are a creative and attractive concept. The process of creating a magnet school, however, is one which requires time: educators familiar with the concept estimate that 5 years is a reasonable period for finding and training a staff to produce a functioning magnet school. Since Phase II depends heavily on attracting students at the high school level into citywide magnet schools, it is important that these schools be made as attractive as possible, and that student expectations be fulfilled. Resources, effort, and training will be essential, and the burden will fall not only on individual schools to communicate the idea, but upon the Boston School Committee to support and allocate adequate resources for these schools.

Finally, the busing issue clearly remains a major sore spot in Phase II. Transportation of about 50 percent of Boston's school students will be required, as compared to the approximately one-third of all students previously transported. The 50 percent rate is slightly higher than the nationwide rate of about 43.5 percent.[223]

Antibusing groups have charged that busing interferes with education because it consumes time and is unsafe. In fact, there is little, if any, evidence to support either contention. Further,

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223/ Data from the National Safety Council show that boys who walk to school have about three times as many accidents as those who ride buses, and that girls who walk to school have about two and one-third times as many accidents as those who ride buses. (Data from National Safety Council, Accident Facts, 1971).

because Boston is a relatively compact city, the average amount of time spent on bus rides may well be less than in many other cities. The absence of evidence to support the arguments of those opposed to busing has not, however, diminished the emotionalism or bitterness which have characterized public debate over busing in Boston and elsewhere.

III. FEDERAL GOVERNMENT INVOLVEMENT

Summary

The two Federal agencies with primary jurisdiction in school desegregation matters are the Department of Health, Education, and Welfare (HEW), specifically the Office for Civil Rights (OCR), and the Department of Justice (DOJ), specifically the Civil Rights Division and the Community Relations Service (CRS).

HEW's Office for Civil Rights was the first Federal agency to enter the Boston case, with extensive data gathering and investigation beginning in the spring of 1970. With its letter of November 30, 1971, OCR began a series of efforts to obtain voluntary compliance with the Title VI requirement that no recipient of Federal funds discriminate on the basis of race, color, religion, or national origin. Negotiations with the school committee proved fruitless.

On June 2, 1972, HEW commenced Title VI compliance enforcement proceedings to terminate HEW funding to the Boston school system. All new Federal funds for which Boston applied were withheld from city schools. Boston continued to receive funds under all ongoing federally-funded programs, such as Titles I and VII of the Elementary and Secondary Education Act of 1965.

On March 2, 1973, an administrative law judge found de jure segregation in Boston's public schools which put the city in violation of Title VI. That ruling was sustained on appeal a year later.

The findings in the HEW proceedings were independent of, but similar to, those of the district court in Morgan v. Hennigan. Discrimination was found in feeder patterns, open enrollment, and controlled transfer policies of the Boston School Committee.

As a matter of policy, HEW withdrew from all administrative proceedings against the Boston school system once the Federal district court issued its findings and order of June 21, 1974. With the district court's "final order" on October 30, 1974, Boston also became eligible to receive Federal Emergency School Aid Act (ESAA) funds to aid school districts undergoing desegregation.

The Department of Justice, relying on the plaintiffs in Morgan v. Hennigan to vindicate the fourteenth amendment rights of Boston's minority school children, chose not to intervene in the case. Its first involvement in Boston's desegregation process came in January 1974, when its Community Relations Service (CRS) offered its conciliatory services to local school authorities. In August 1974, the court requested that CRS monitor Phase I implementation proceedings as an aid to the court. The court also requested CRS to continue its conciliation efforts with all parties to the case. As a result, beginning in September 1974, the Community Relations Service often became directly involved with school discipline problems, not normally a CRS responsibility.

Although the Department of Justice refused to approve the use of Federal marshals in Boston in fall 1974, it did assign a team of six attorneys from its Civil Rights Division, for "as long as they are needed," to enforce Federal criminal civil rights laws. Between October and December 1974, this team investigated complaints of criminal civil rights violations and filed charges against alleged violators of Federal laws. Since December 1974, the team has been involved in followup activities in connection with suits previously filed. Plans for Justice Department involvement in desegregation during the 1975-1976 school year have not yet been determined.

The White House also became involved in the Boston case with a public statement by the President in October 1974, in which he expressed disagreement with the Federal court order.

Department of Health, Education, and Welfare (HEW)

School districts throughout the Nation annually receive Federal funds in support of such programs as: (1) Title I of the Elementary and Secondary Education Act (ESEA) of 1965, which provides funds for reading, mathematics, and other compensatory programs for disadvantaged children; (2) Title III, ESEA, which provides for supplementary educational centers and services; (3) Title VII, ESEA, which provides funds for bilingual-bicultural programs; and (4) Education of the Handicapped Act of 1971, which provides funds for research, training, model centers, and other services for handicapped children.

As recipients of Federal educational funds, these school districts are required to comply with Title VI of the Civil Rights Act of 1964 [224/] and Title IX of the Education Amendments of 1972. [225/] Compliance monitoring of districts receiving Federal funds is the responsibility of the Office for Civil Rights (OCR) in the Department of Health, Education, and Welfare. Title VI requires OCR to oversee the elimination of all vestiges of unlawful segregation and to enforce the requirements of HEW's May 25, 1970, memorandum, which specifies the responsibility of school districts in overcoming discrimination against language minority children.

Since January 1974, OCR has also assisted the U.S. Office of Education (USOE) in the selection and review of school districts to be funded under the Emergency School Aid Act (ESAA). [226/] USOE has ultimate authority to administer the program, but since ESAA funds are used to aid school desegregation, OCR is responsible for ensuring that recipient school districts are in compliance with ESAA civil rights provisions. ESAA is the only education program in which OCR has a direct monitoring role.

[224/] This act provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. §2000d (1964).

[225/] 20 U.S.C. §1681 (1972). This act included the prohibition of sex discrimination in education programs receiving Federal financial assistance.

[226/] U.S. Commission on Civil Rights, The Federal Civil Rights Enforcement Effort--1974, Vol. III, To Ensure Equal Educational Opportunity (1974), p. 3.

Since February 1973, OCR's responsibilities have also included implementing the court injunction in Adams v. Richardson, [227] which requires HEW to enforce Title VI in school districts found in noncompliance during the 1970-71 school year.[228]

Guidelines and data for compliance reviews are prepared and disseminated from HEW's Washington office to the 10 regional offices. [229] These regional offices are generally permitted to establish their own priorities, with occasional supersedence by the Washington office.

HEW and Boston School Desegregation

HEW began a compliance review of the Boston school system in spring 1970 upon receipt of complaints charging discriminatory operation of the Boston public schools. [230] Upon completion of the initial phase of the required compliance review in November 1971, HEW informed the Boston School Committee that it was in noncompliance with Title VI. [231] HEW then made its first attempt to obtain voluntary compliance.

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[227] 480 F.2d 1159 (D.C. Cir. 1973).

[228] Ibid. at 34.

[229] HEW's Region I office is located in Boston.

[230] The Boston School Committee had submitted an Assurance of Compliance with Title VI to HEW as early as 1965, thereby qualifying it to receive Federal funds.

Seven months after this initial notice of noncompliance, a second letter of noncompliance informed the school committee that HEW was initiating formal administrative enforcement proceedings,[232] since negotiations had failed to result in voluntary compliance, and that all applications for Federal funds for new programs and activities for elementary and secondary education would be deferred. [233] Table 9 shows the amounts of HEW grants for Boston public schools from 1971-74.

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[231] The compliance review (1) found the school system had "adopted and administered student assignment and grade organization policies in such a manner as to create two separate, racially identifiable school subsystems--one predominantly white and the other predominantly nonwhite," and (2) expressed a "concern with regard to the absence of policies and procedures within the Boston Public Schools necessary to assure that enrollment and attendance services for Spanish-surnamed children are as effective as those provided for other children." Letter of noncompliance, J. Stanley Pottinger, Director, Office for Civil Rights, to Dr. William H. Ohrenberger, Superintendent of Public Schools, Boston, Mass., Nov. 30, 1971.

[232] In addition, an offer of assistance to obtain compliance with Title VI was repeated at this time. Letter of noncompliance from J. Stanley Pottinger, Director, Office for Civil Rights, to Dr. William H. Ohrenberger, Superintendent of Public Schools, Boston, Mass., June 2, 1972.

[233] Ibid.

With its letter of June 2, 1972, HEW commenced consolidated compliance proceedings with the National Science Foundation and the Department of Housing and Urban Development. [234] On March 2, 1973, an administrative law judge found the school district "out of compliance with the Civil Rights Act of 1964, with respect to its secondary, intermediate and elementary school operations." [235] On the issue of underenrollment of Spanish-speaking children, it ruled that the government had not established a basis for a finding of either compliance or noncompliance. [236] The administrative law judge found that Boston was no longer entitled to receive certain designated Federal funds and ordered that funds previously approved be withheld and that future requests made under circumstances similar to those at the time of the hearing should be denied. [237]

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[234] When administrative enforcement proceedings are initiated, the "Coordinated Enforcement Procedures for Elementary and Secondary Schools under Title VI of the Civil Rights Act of 1964," issued by the U.S. Department of Justice, provides: "Each Federal agency extending assistance to the schools will be notified of this action ...that efforts to secure compliance by voluntary means have failed, and they will be given the opportunity to join the enforcement proceedings." The hearing, after notice and pre-hearing proceedings, began on September 19, 1972, and continued until October 5, 1972.

[235] Specific programs, such as those provided under Title I, Title III, and Title VI of ESEA, "are infected with a discriminatory environment." Initial Decision of the Administrative Law Judge, in the Matter of Boston Public Schools, Administrative Proceedings in the Department of Health, Education and Welfare, National Science Foundation, Department of Housing and Urban Development, Doc. No. CR-982 72-1, Mar. 2, 1973.

[236] Ibid., p. 77.

[237] Ibid.

The school committee appealed the decision of the administrative law judge to the five-member Reviewing Authority appointed by the secretary of HEW. The Reviewing Authority, however, affirmed the administrative law judge's ruling, with minor exceptions, of noncompliance with Title VI. [238]

Subsequent to the March 2, 1973, decision, the Federal district court ordered the school committee to begin desegregation of Boston's public schools in the fall of 1974. In accordance with HEW regulations, the issuance of the court order rendered the district in compliance with Title VI. [239]

DEPARTMENT OF JUSTICE (DOJ)

Attorney General

The Attorney General is authorized to initiate a civil action against a school board that denies a class of people equal protection of the laws and may order such relief as may be appropriate. [240/] Where an action seeking relief from the denial of equal protection of laws under the 14th amendment on account of race, color, religion, sex, or national origin has already been initiated, the Attorney General is authorized to intervene if the case is of general public importance. [241/]

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[238] Final Decision of the Reviewing Authority, In the Matter of Boston Public Schools, Administrative Proceedings in the Department of Health, Education, and Welfare, National Science Foundation, Department of Housing and Urban Development, Doc. No. CR-982 72-1, Apr. 19, 1974. HUD concurred in the decision of the Reviewing Authority. HUD Final Decision, Apr. 19, 1974.

[239] According to HEW regulations (45 CFR 80) under Title VI of the Civil Rights Act of 1964, compliance with the court order to desegregate renders the school district in compliance with Title VI "for the purpose of approving applications and plans and the release of funds in approved Federally-assisted programs." Peter E. Holmes, Director, Office for Civil Rights, letter of compliance to Edward J. Winter, Secretary, Boston Public Schools Committee, Nov. 21, 1974.

240/ 42 U.S.C. §2000c-6 (1964) reads in part: "(a) Whenever the Attorney General receives a complaint in writing--(1) signed by a parent or a group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws...and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board and after certifying that he is satisfied that such board has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate...."

241/ 42 U.S.C. §2000h-2 (1972) states that: "Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action."

The Attorney General exercised neither of these options in Boston.[242]

Civil Rights Division

The Justice Department did involve itself in Boston's desegregation process in other ways. Reacting primarily to media accounts of violence and to allegations of criminal civil rights laws violations from the NAACP and others, the department on October 10, 1974, assigned six Civil Rights Division attorneys to Boston for "as long as they are needed."[243] Their presence was not formally requested by local authorities. These six attorneys were to help ensure prompt enforcement of Federal criminal civil rights laws during any school desegregation distrubances. They were to investigate and bring charges only against violators of Federal criminal civil rights laws. The Office of the United States Attorney for the State of Massachusetts

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242/ The Boston desegregation suit was initiated by private plaintiffs. The Department of Justice explained its decision not to intervene in Morgan v. Hennigan as follows: "because we believe that the parties to the litigation have fully and adequately presented the issues to the District Court and will do so before the Supreme Court if review is granted, we have decided that it is not necessary or appropriate for the United States to intervene in the case." U.S. Department of Justice, Office of Deputy Attorney General Laurence H. Silberman, Press Release, Jan. 10, 1975.

243/ U.S. Department of Justice, Civil Rights Division, Press Release, Oct. 10, 1974.

was not directly involved in their activities in Boston. 244/

DOJ's efforts in Boston resulted in the filing of formal charges against 11 individuals--2 adults (both white), 3 youths (one black) and 6 juveniles (two black). 245/ All charges were brought between October and December; the investigations found no prosecutable violations after December. DOJ attorneys continue to travel to Boston to handle proceedings connected with the 11 charges filed. 246/

244/ William Gardner, Deputy Section Chief, Criminal Section, Civil Rights Division, U.S. Department of Justice, interview, May 29, 1975. Mr. Gardner headed the team of six attorneys assigned to Boston.

245/ Gardner interview, May 29, 1975. Charges filed against the alleged violators of civil rights laws included: conspiracy against the rights of citizens (18 U.S.C. §241); interference with federally-protected activities (18 U.S.C. §245); obstruction of a court order (18 U.S.C. §1509); possession of an unregistered firearm (26 U.S.C. §5861(d); making a destructive device /firearm/ without paying a making tax (18 U.S.C. §§371). Department of Justice, Civil Rights Division, Press Release, Nov. 1, 1974, pp. 1-3.

246/ As of May 1975, the status of the 11 charges brought were as follows: 4 convictions; 1 dismissal; 1 acquittal; and 5 awaiting trial. Gardner interview, May 29, 1975.

DOJ anticipates that Civil Rights Division attorneys may be needed in Boston again in fall 1975. No formal plans however, have been developed for division involvement in Boston in September. 247/

Community Relations Service (CRS)

Before the six attorneys were assigned to Boston, the Justice Department had become involved through the efforts of the Community Relations Service. This service, a unit within the Department of Justice, has an important role to play in districts attempting to desegregate their schools. 248/

In August 1974, the district court requested the CRS act as the "eyes and ears" of the court by monitoring implementation of Phase I. The service was to provide the court with an objective third-party view of the situation. This role was significant because the court, in attempting to monitor compliance with its

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247/ Gardner interview, May 29, 1975.

248/ The Service is authorized to: provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person. 42 U.S.C. 82000g-1 (1964).

desegregation orders, normally would have had to rely on media reports from parties to the court proceedings.[249]

Although functioning as an aide to the court, the unit also continued to provide its conciliatory services to the school authorities.[250] While advising school administrators on policy matters, the CRS staff of 12 assigned professionals often dealt with school discipline problems.[251] At times CRS staff became involved in calming students and breaking up fights.

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[249] Interview with Hayden Gregory, Chief Counsel, Community Relations Service, U.S. Department of Justice, June 2, 1975.

[250] Ibid.

[251] These 12 professionals were assigned from the Washington office; the Boston office has only 5 staff members. CRS began to reduce the number of staff assigned to Boston in late October and early November. During the height of their involvement, CRS staff functioned as three or four teams of two persons each to work with school administrators, in planning for order in the schools, or responding to disruptions that had already occurred. The teams moved from location to location in radio-dispatched, school security system cars. One CRS staffer remained at the police station for liaison purposes; one was always at the superintendent of schools' office; another was assigned to the City Hall information center; and the CRS Boston operation leader generally remained at the Boston office to direct activities. Ibid.

The Service has made no concrete plans for involvement in Boston under Phase II. Its monitoring responsibilities under Phase I will probably be considerably diminished, if not eliminated, by the recent establishment of a citizens' monitoring committee to function this fall. [252] In any event, CRS hopes to minimize its involvement in September by promoting constructive community participation in desegregation-related matters.

WHITE HOUSE

Independent from the activities in Boston of HEW and the Justice Department, the White House became involved in Boston school desegregation in early October 1974, when President Ford publicly stated his disagreement with the Federal court order in the course of a press conference. The text of the President's remarks is as follows:

> Q. "Mr. President, Boston's Mayor White has appealed to the Federal government to send U.S. marshals to help restore order in Boston's school desegregation crisis. And black groups have asked for federalizing the National Guard and sending in Federal troops. As the Chief Executive, what do you plan to do and what comments do you have on this situation?"
>
> A. "At the outset, I wish to make it very, very direct. I deplore violence that I have read about and seen on television. I think that's most unfortunate.

252/ CRS suggested last August that such a committee be established, but there was not sufficient time before the September school opening date. During their stay in Boston, CRS staff were responsible for the establishment of volunteer monitoring committees to assist administrators in keeping the schools peaceful. CRS also instructed biracial groups in methods for handling inflammatory situations. Ibid.

> "I would like to add this, however. The court decision in that case, in my judgment, was not the best solution to quality education in Boston. I have consistently opposed forced busing to achieve racial balance as a solution to quality education.
>
> "And, therefore, I respectfully disagree with the Judge's order. But having said that, I think it is of maximum importance that the citizens of Boston respect the law and I hope and trust that it's not necessary to call in Federal officials or Federal law enforcement agencies.
>
> "Now, the marshals, if my information is accurate, are under the jurisdiction of the court, not directly under my jurisdiction.
>
> "As far as I know, no specific request has come to me for any Federal involvement and therefore I'm not in a position to act under those circumstances." [253/]

The President, according to his press secretary, was "speaking philosophically," and his comments were consistent "with his long-held views." [254/]

Two days after his original statement, the President, responding to a request from Senator Edward Brooke of Massachusetts, [255/] taped a 30-second, voice-only message for those Boston radio and television stations that requested it. The President's taped comments neither stated any agreement with the order nor specifically urged obedience to it:

253/ *Boston Globe*, Oct. 11, 1974.

254/ *Boston Globe*, Oct. 13, 1974.

255/ Senator Edward W. Brooke, United States Senator, letter to President Gerald R. Ford, Oct. 10, 1974.

Boston is a fine, proud city, the cradle of liberty where many of the freedoms that we all so cherish today in this country were born 200 years ago. The people of Boston share a tradition of reason, fairness and responsibility for the rights of others. Now, in a difficult period for all of you, it is a time to reflect on all that your city means to you; to react in the finest tradition of your city's people. It is up to you, every one of you; every parent, child to reject violence of any kind in your city; to reject hatred and the shrill voices of the violent few. I know that nothing is more important to you than the safety of the children of Boston and only your calm and thoughtful action now can guarantee that safety. I know that you will all work together for that goal and have one more thing to be proud of in the cradle of liberty.

IV: LAW ENFORCEMENT

Summary

The implementation in September 1974 of the court-ordered desegregation plan was accompanied by disturbances in some Boston communities and schools, particularly South Boston. Local and then State law enforcement agencies became involved in attempts to maintain order and protect the safety of community residents and students.

The Boston Police Department had the primary responsibility for law enforcement during this period. The department initially adopted a "low profile" and concerned itself with external safety matters such as bus route logistics, traffic rerouting, and prevention of false fire alarms. No plans were developed for internal security at the schools. The department's Tactical Patrol Force, specially trained and experienced in crowd control, quickly became a critical component in the department's law enforcement efforts.

In view of the great pressures on the police department, the mayor, on October 7, 1974, requested the Federal district court to order the assistance of Federal marshals. The Department of Justice, however, argued against assigning marshals to Boston on the grounds that local authorities had not used all law enforcement forces available to them. The Governor then ordered, at the mayor's request, the State Police and the Metropolitan District Commission Police to assist in restoring order in Boston.

The State Police, who have riot control training and experience, and possess statewide police jurisdiction, were assigned by the Boston Police Department to provide both internal and external protection for nearly all South Boston schools. The Metropolitan District Commission Police, normally responsible for protection of State recreational facilities, some State roads, and public utilities, initially aided the department in controlling pedestrian crossings and bus stops and escorting buses into South Boston and,later, in building security at one South Boston school.

The Massachusetts National Guard, while it also has training in riot and crowd control, is untested in such situations. Guard units including the Military Police (MP's), Special Weapons and Tactics (SWAT), and other special teams were mobilized for 5 weeks starting in mid-October and remained on a standby basis until November 1974.

Most of these law enforcement units have low minority representation. Some efforts have recently begun to increase minority employment within these agencies.

Boston Police Department

Organization

The Boston Police Department (BPD), established in 1636, is the oldest local police department in the Nation. The department is administered by a commissioner appointed by the mayor for a 5-year term. [257] Departmental administrative functions are delegated to 28 administrative officials appointed by the commissioner. [258]

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[257] The present commissioner is Robert J. diGrazia, a 16-year veteran in the field of law enforcement. Appointed by Mayor White in November 1972, diGrazia's career as a police officer began in 1959 in California. He was superintendent of the St. Louis County, Missouri, police (a 600-person police force) for 3 years prior to coming to Boston. Robert J. diGrazia, Commissioner, Boston Police Department, interview, Apr. 3, 1975.

[258] The 28 administrators include Superintendent-in-Chief J. M. Jordan, who heads the bureau of field services, the operational command center of the BPD. That office directs seven area command units, each headed by a deputy superintendent. In January 1975, D. J. MacDonald replaced Charles Barry, who became State secretary of public safety, as deputy superintendent for Area E, which covers South Boston. See appendix C for further details of the BPD's organizational structure.

The department's actual strength of 2,529 sworn men and women in June 1974 established the BPD as the eighth largest police force in the country. [259] Of the cities having larger police forces, all are considerably larger in population than Boston. [260] Boston's ratio of police officers to the general population is relatively high; one police officer for every 251 people. The department has one of the highest per capita expenditure rates for police services in the country. [261]

The Boston Police Department is distinctive not only for its institutional age, but for the age of most of its officers. The average age of a Boston police officer is 45.5 years, as opposed to the national average of 26 years. The average length of service is 20 to 22 years. [262]

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[259] This figure represents 82 percent of the department's total work force. The department also employs 563 civilians in various positions. Boston Police Department Equal Employment Opportunity Plan (June 1974), p. 3. According to a document obtained on May 22, 1975, from Mark Furstenberg, Director of Planning and Research, the BPD had almost 2,300 persons engaged in "protective services" on May 1, 1975.

[260] Cities with larger police forces than Boston, in order of force size, are: New York, Chicago, Philadelphia, Los Angeles, Detroit, Washington, D.C., and Baltimore.

[261] Its total budget for fiscal year 1974-1975 was approximately $51,228,000. E. Powers, The Basic Structure of the Administration of Criminal Justice in Massachusetts (Boston: Massachusetts Correctional Association, 1973) supplement, p. 7.

[262] Boston Police Department, Equal Employment Opportunity Plan (June 1973), p. 3.

Generally, the retirement rate for Boston police officers is below the level deemed appropriate by department officials. In addition to the high median age of police personnel, there is a substantial disability rate among officers currently on active duty. An average of 11.3 percent of the patrol force is not available for work at any given time because of sickness or long-term injuries. The annual attrition of sworn personnel for all reasons is less than 3 percent of the patrol force. Retirement accounts for 1.5 percent of those leaving the department.[263/] These figures are significantly below the national average and are attributed to an antiquated, State-administered retirement system.[264/]

Since diGrazia took charge of the department, training for Boston's police officers has begun with an extensive first year of instruction, which consists mainly of field experiences, but includes a series of lectures and seminars on the police officer's

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[263/] Ibid., p. 4.

[264/] See the findings and recommendations for changes in the retirement law and in police personnel practices contained in Martin E. Segal Co., untitled study of retirement patterns of Boston police officers, Boston, December 31, 1974. Administrative reform efforts in connection with various personnel and operational policies in the BPD are discussed in R. J. Albert, A Time for Reform: A Case Study of the Interaction Between the Commissioner of the Boston Police Department and the Boston Police Patrolmen's Association (January 1974) (hereafter cited as the Albert Report).

environment and the organization of the force.[265] Once a police officer successfully completes this training and is a full-time member of the force, additional in-service training consists of an annual 2-day upgrade training program for each police officer and training for certain job specialities. Additionally, training programs are developed to deal with specific issues of importance, such as desegregation (an 18-minute video tape prepared by the department was shown to many BPD officers) and changes in policy. As a prerequisite to their promotion, lieutenants and sergeants are required to complete a designated number of hours of institutional training.[266]

Department Employee Organizations

Three organizations represent police department employees in such matters as wages, hours, and working conditions. The most active of the three is the Boston Police Patrolmen's Association (BPPA), an independent union that represents all of Boston's patrolmen and patrolwomen. Established in 1965, the union was opposed by the department's management, as well as four other labor organizations already functioning in the department. 267/ These four organizations combined to form one organization, the Collective Bargaining Federation (CBF), which challenged the BPPA for the representation of patrolmen in an election in 1967. A vote of 1,295 to 688 firmly established the BPPA as the official collective bargaining representative of patrolmen. 268/

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[265] Recruits spend a maximum of 3½ hours per day in classroom seminars. The remaining time is spent in special projects and field work under the supervision of a specially-trained field training officer. The Recruit Training Year - A Street Academy, published by the Boston Police Department, Division of Training and Education, Feb. 1975.

[266] Robert Wasserman, Director, Boston Police Department Training Academy, interview, April 18, 1975.

In its 10 years of existence, the BPPA has become a force to be reckoned with in the daily operation of the Boston Police Department. It makes extensive use of its grievance procedures to take to arbitration alleged infractions of its collective bargaining agreement with the Boston Police Department. Union officials estimate that in 1974, some 300-400 grievances were filed, most of which alleged independent and continuing contract violations. Approximately 103 of these were brought to binding arbitration by a neutral third party. 269/ The BPPA has been active in political affairs, as is reflected in the numerous articles and editorials in its monthly newspaper, The Pax Centurion.

267/ Albert Report, pp. 25-26. The four organizations were: (1) the Massachusetts Police Association (a statewide, lobbying group); (2) the Superior Officers' Federation (the bargaining union for sergeants, lieutenants, and captains); (3) the Boston Police Relief Association (a group which provides low-interest mortgages); and (4) the Committee for the Protection of the Rights of Police Officers (a group concerned with abuses of police).

268/ Ibid. The CBF has since dissolved.

269/ Chester Broderick, Chairman, BPPA, and John Bilodeau, Vice Chairman, BPPA, interview, May 5, 1975.

The Superior Officers' Federation, the official representative of all police officers with ranks ranging from sergeant to captain, is a less aggressive employee organization within the department. It, nonetheless, affords its members benefits comparable to those of the BPPA.

The third labor organization functioning in the department is the United City, County, and State Employees Union Local 285. It is this union that represents nonuniformed police personnel, as well as civil service employees.

Minority Employment

A continuing source of controversy within the BPD is that of minority employment on the police force. The Boston Police Department's involvement in the controversy arises because the BPD may only hire job applicants "certified" by the Massachusetts Civil Service Commission.

Massachusetts civil service procedures mandate that all applicants for police positions take a general intelligence test. Individuals who successfully pass these tests are then placed on an "eligibility list," from which various municipal police jurisdictions, including the BPD, select their police officers. State law accords employment preference to disabled veterans, other veterans, and applicants who reside in the jurisdiction of the police agency with which they are seeking employment. [270] Historically, very few minority persons passed the civil service exams, and thus few became police officers. BPD statistics show that in 1974 minorities represented only 5 percent of the force. [271] While this figure is low in relation to Boston's 23 percent minority population, it represents a substantial increase in minority police personnel during the past 3 years. This increase appears to have resulted in large part from the ruling in Castro v. Beecher, [272] a lawsuit brought by six black and two Puerto Rican residents of Boston against the Massachusetts Civil Service Commission.

The effect of Castro was to revise the testing procedures. Having found that the existing written test operated to discriminate against blacks and Spanish-surnamed applicants, the court ordered that a culture-free written examination be devised and given by the civil service commission.[273] A complicated certification procedure was then established. [274]

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[270] Michael Gardner, Executive Assistant to the Director, Massachusetts Division of Civil Service, interview, June 1975 (hereafter cited as Gardner interview).

[271] This 5 percent total included 90 black officers (9 were female); 8 Spanish-speaking officers; and 31 policewomen (including 9 blacks and 3 Chinese). Boston Police Department Minority Recruitment Program, Feb. 1975, p. 2 (hereafter cited as Recruitment Program).

[272] 334 F. Supp. 930 (D. Mass. 1971), affirmed as modified 459 F. 2d 725 (1st Cir. 1972). on remand 365 F. Supp. 655 (consent decree, D. Mass. 1973). Prior to this order, minority representation on the force included 53 black officers, 1 Spanish-speaking officer, and 15 policewomen. Recruitment Program (1975), p. 1.

Four categories of certified candidates were created. Group A consisted of all minority persons who passed the revised 1972 examination but who had failed the 1968 and 1970 tests. Group B included all persons who had passed the 1968 and 1970 tests. Group C contained those minority persons who had passed the 1972 test, but who had not taken any of the preceding police exams, and Group D included all nonminority persons who passed the 1972 exam. The civil service commission was required to "certify"--that is, send a list of eligible candidates to various police departments, including Boston, from which job applicants could be selected--one member from Group A for every member of Group B. When these groups were exhausted, the civil service commission was then to certify one Group C member for every three Group B members. Group D members were to be certified last. [275]

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[273] Castro v. Beecher, supra.

[274] On remand to the district court, the parties negotiated a consent decree governing certification procedures. Castro v. Beecher, 365 F. Supp. 655 (D. Mass. 1973).

[275] Ibid.

Only certified persons may be hired and no new candidates can be certified until the current list is exhausted or expires.

Attorneys for the parties are currently negotiating a new consent decree for next year's list.[276] It is anticipated that a one to one certification ratio will be agreed to--that is, one minority applicant will be certified for each white applicant certified.[277]

Castro v. Beecher has no effect upon civil service rules giving the BPD flexibility to hire above--or below--a one to one ratio.[278] For every five vacancies, civil service certifies seven candidates.[279] The BPD, therefore, need not hire at a one to one ratio.

Prior to Castro, the department's minority recruitment program had consisted of what one department report referred to as "a series of unconnected efforts lacking the comprehensiveness and intensity needed to overcome the many hurdles faced by qualified minority groups interested in police careers."[280]

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[276] The test establishing eligible candidates will be given in Oct. 1975. Gardner interview.

[277] Ibid.

[278] Nicholas Foundas, Legal Advisor, Boston Police Department, interview, April 1975.

[279] Gardner interview.

[280] Recruitment Program, p. 4.

Between 1967 and 1972, the department's recruitment program resulted in the appointment of only 18 blacks to the force. It was the contention of the department "that making unusually vigorous efforts to attract minority candidates was not within our capacities, nor was it required by law or reason." [281] Since the Castro decision, the department has committed itself to recruit more minority applicants.[282] Nonetheless, the BPD projects that even if it hires one minority officer for each white officer, and if all these minority officers remain on the force after being hired, it will take at least 11 years before the percentage of minority police officers in the BPD equals the minority representation in Boston's population. [283]

The Boston Police and School Desegregation

Although Boston police planning for Phase I implementation began in spring of 1974, the formal BPD plans for the September 1974 desegregation of schools, called "Operation Safety," were prepared in July 1974 by Superintendent P. J. Russell in conjunction with educational personnel and city hall staff. This plan dealt primarily with logistics--school bus routes, pick-up points, and plans for traffic control near schools and bus stops. Planning meetings were also conducted within the BPD among the command staff. 284/

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[281] Ibid. pp. 5-6.

[282] Ibid. The department recently assigned the president of the Massachusetts Afro-American Association of Police (MAAAP), a predominantly black social organization with no formal status in the BPD, to its minority recruiting teams. John Wells, President, MAAAP, interview, May 27, 1975.

[283] Recruitment Program, p. 6.

On September 6, 1974, Commissioner diGrazia issued a special order throughout the department, in which he stated that the department had two primary missions in regard to the desegregation plan: "To prevent personal injury and property damage (or loss), and to protect the rights of all citizens to peaceful assembly and dissent. The overall objective of the department is to maintain order and provide for the safety of all citizens." 285/ The order further stated that:

> In responding to a desegregation situation, officers will be particularly attentive to the principle of minimum use of force. Officers will exhaust all reasonable alternatives before making arrests or using physical force. Officers are encouraged to respond coolly and purposefully and to rely, as much as possible, on the use of persuasion to accomplish police objectives. 286/

284/ Robert J. diGrazia, Commissioner, Boston Police Department, interviews, April 3, May 27, May 29, June 9, 1975.

285/ Special Order from Police Commissioner diGrazia to all bureaus, divisions, districts, offices, sections, and units, "Desegregation Policies and Procedures," September 6, 1974.

286/ Ibid.

Moreover, specific administrative regulations, deployment procedures, and operational instructions were outlined for police officers. Excerpts from the Massachusetts General Laws were provided in a training bulletin, to familiarize officers with laws potentially applicable in situations they would encounter. 287/

Initially, using the "low profile" philosophy, the BPD began opening day of school with minimum police visibility. Before the first buses arrived at South Boston High School (Southie), the Tactical Poli[illegible] (TPF), which had been standing by in reserve, was deployed at Southie. The low profile was then abandoned, and mass police deployment was adopted. The TPF, a 125-member, specially-trained unit under the command of Deputy Superintendent, then Captain, Joseph D. Rowan, took on almost exclusive responsibility for crowd control both in South Boston and Hyde Park, and other places where crowd control was required. 288/ The overtime costs for this TPF function from September through

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287/ Training Bulletin, "Implementation of School Desegregation," published by the Boston Police Department (undated).

288/ Created in 1962 to deal with urban disorders, the TPF in the past 3 years has been converted to a citywide, mobile, anticrime unit. TPF members are distinguished from BPD patrolmen by their extra training, their lower average age (about 30), and most significantly by the fact that they always work together. TPF jurisdiction is citywide. Joseph D. Rowan, Deputy Superintendent, Area G, Boston Police Department, interviews, April 21 and 23, 1975.

December 1974 amounted to more than three quarters of a million dollars. [289]

Many schools, such as Burke High School in Roxbury and Roslindale High School, initially had one or two district officers stationed inside and several stationed outside the school buildings. Other schools such as South Boston, Hyde Park, and Dorchester High had many more officers outside the schools. By October 2, 1974, there were 30 policemen stationed inside South Boston High and 164 stationed outside. [290] The TPF performed multiple duty--crowd control at South Boston and Hyde Park High Schools and anticrime duty at night. The TPF also performed crowd control duties on weekends when antibusing groups held mass demonstrations. [291]

On October 10, 1974, when the State Police were assigned responsibility for South Boston High, the Dean-Hart complex, and general bus route security for all Phase I South Boston schools, the TPF was removed from South Boston and assigned primarily to

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[289] Robert J. diGrazia, Police Commissioner, Boston Police Department, to all Superintendents, Deputy Superintendents, and Directors, Boston Police Department, memorandum on 1974 overtime costs, March 31, 1975.

[290] Data obtained from Boston Police Department indicating the number of police inside and outside all Phase I schools for various dates through March 31, 1975 (hereafter referred to as BPD School Deployment).

[291] Rowan interview.

Hyde Park High. [292] By October 23, 1974, there were 88 police officers assigned inside Hyde Park High. [293] The situation was stabilized from October until December 11, 1974, when a black student allegedly stabbed a white student at Southie. On that day the State police had been called to Walpole Prison to quell a disturbance, requiring TPF to reassume crowd control duties at Southie. [294] When school reopened after the Christmas holidays, BPD officers were stationed on the first floor of Southie. Hyde Park High had district patrolmen inside and the TPF outside the school. Police were positioned at South Boston High and Hyde Park High so as to be in sight of another officer looking in either direction. [295]

All officer assignments for the BPD, including the TPF, in respect to school desegregation, were made on an overtime basis in accordance with the BPD collective bargaining agreement. The cost result in overtime for BPD involvement in school desegregation between September 1974 and January 1975 was $4,623,828.16. [296]

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[292] Ibid.

[293] BPD School Deployment.

[294] Rowan interview.

[295] Ibid.

[296] Data supplied by Philip Marks, Administrative Assistant to the Commissioner, Boston Police Department.

Massachusetts State Police

The Massachusetts State Police, created in 1865, was the first statewide law enforcement agency in the United States. [297] By 1919, it had evolved into the State department of public safety, as it is called today. [298] Day to day operations of the State police are headed by the superintendent [299] who reports directly to the commissioner of the department of public safety. [300] At the executive level, the department falls under the secretary of public safety. [301] Both the commissioner and the secretary are appointed by the Governor. The superintendent is the highest civil service position in the State police [302]

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[297] W. F. Powers, The One Hundred Year Vigil (1965).

[298] This force was divided into three divisions: State police, fire prevention, and inspections. The spread of crime into the rural areas of the State necessitated the creation in 1921 of a State police patrol, the uniformed branch of the State police. Ibid., p. 16.

[299] Colonel Americo Sousa is currently superintendent of the State police.

[300] John F. Kehoe, Jr., is the current commissioner of the department of public safety.

[301] Charles Barry is secretary of public safety.

[302] Colonel Americo Sousa, Superintendent, Massachusetts State Police, and John F. Kehoe, Commissioner, Massachusetts State Police, interviews, April 9 and April 24, 1975.

Since 1885, department officers have been selected through separate statewide civil service examinations. State police applicants must be between 21 and 30 years, and upon completion of rigorous physical, written, and oral examinations, are required to attend a 16-week training course at the State police academy. State police members are also required to attend the academy for periodic refresher courses. 303/

State police have full police powers throughout the State and may be called upon by the Governor to suppress riots and preserve the peace. They patrol most of the State highways, including the Massachusetts Turnpike, and are frequently called upon by local authorities to investigate major crimes. Troopers are also assigned to duty at Logan Airport. 304/

As of May 15, 1975, the Massachusetts State Police had a complement of 1,014 members. Minorities compose 2.7 percent of this total, and women constitute 0.5 percent of the force. The depart-

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303/ Powers, The Basic Structure of the Administration of Criminal Justice in Massachusetts, pp. 36-37.

304/ Ibid.

ment has established employment goals for minorities and women within the department.[305]

The State Police and Boston School Desegregation

On October 10, 1975, pursuant to orders received by the Governor the night before, 350 State policemen arrived in South Boston. It was decided that day that the State police, assisted by the Metropolitan District Commission Police (MDCP), would take full responsibility for all school desegregation-related police activity in South Boston--from protecting bus routes to controlling crowds to securing the schools themselves. The troopers deployed to South Boston, however, were under the overall supervision of Boston Police Commissioner diGrazia.[306]

305/ There were 27 minorities in the rank of trooper; none occupies a supervisory position. The five women on the force hold the following ranks: two troopers, two staff sergeants, and one lieutenant. Captain William F. Ready, Personnel Records Section, Massachusetts State Police, to Captain Edward R. MacCormack, Communications Section, Massachusetts State Police, minority report memorandum, May 15, 1975.

306/ Sousa and Kehoe interviews.

From October 1974 through May 1975, the number of State police deployed in South Boston fluctuated between 63 (during the winter recess) and 300. [307/]

The only major incident in South Boston's schools, after the State police entered the neighborhood, occurred following their temporary withdrawal from the area in order to quell a disorder at Walpole State Prison. [308/] Thereafter, the State

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[307/] The manpower commitment of the State police from October 1974 to May 1975 was:

October 10 through November 8	350
November 11 through November 27	300
December 2 through December 6	200
December 9 through December 11	125
December 12 through December 20	105
December 30 through January 6	63
January 7	300
January 8 through April 8	215
April 9 through May 8	215
May 9 through May 15	300

Robert E. Dahill, Sergeant, Massachusetts State Police, letter to Edward R. MacCormack, Captain, Communications Section, Mass. State Police, May 16, 1975.

[308/] On December 11, 1974, a South Boston white student was allegedly stabbed by a black student at South Boston High. Special tactics had to be used to bus black students safely from the school and both State police and TPF forces were required to disperse disorderly crowds which had gathered there. Sousa and Kehoe interviews.

police established 87 posts throughout South Boston High School. They also took special precautions such as assigning a police officer to a certain student of either race for an entire day. [309]

Metropolitan District Commission (MDC)

State Metropolitan District Commission (MDC) operations are governed by a 5-member commission, one of whom serves as MDC chairman, appointed by the Governor. The commission, under the jurisdiction of the executive office of environmental affairs, is divided into six operational divisions, one of which is the police division (MDCP). [310] This division is headed by a superintendent who is directly responsible to the commissioner of the MDC. [311]

The police division's primary law enforcement responsibility is in communities where MDC property is located, and in recreational facilities and certain adjacent roadways and waterways. The members of the force receive specialized training in areas such as K-9 units, detective work, bomb disposal, mounted police tactics, and tactical forces. [312]

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[309] Major Charles Gillian, Massachusetts State Police, interview, May 2, 1975.

[310] The other operational divisions are: water; sewerage; construction engineering, park and recreation; and park engineering. Metropolitan District Commission Annual Report.

[311] Ibid.

[312] Ibid.

As of May 1974, the MDCP had a complement of 591 officers. Of this number, minorities constituted only 2 percent of the entire force. There were no female officers. Of the 12 minority officers on the force, 7 (58 percent) were hired this fiscal year. [313/]

The MDCP and Boston School Desegregation

The MDCP were involved in Boston public school desegregation from the first day of school in September 1974. Since some of the buses traveled on roads patroled by the MDCP and since the "L" Street Annex to South Boston High School was on property within MDCP jurisdiction, MDCP had traffic control responsibility

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[313/] The personnel breakdown by race and sex as of May 28, 1974, was as follows:

Position	Male		Female		Total
	Minority	White	Minority	White	
Superintendent		1			1
Deputy Sup.		2			2
Captain		12			12
Lieutenant		22			22
Sergeant	1	46			47
Patrolmen	11	496			507
TOTALS	12	479			591

As indicated by the chart, all minority males but one occupy positions of patrolmen. Equal Employment Opportunity Plan, Metropolitan District Commission, Police Division, (June 1974).

on bus routes and at bus pickup points to assure pedestrian safety and ease traffic flow.

As a result of growing community tension, on October 9, 1974, the Governor ordered the MDCP to increase its manpower commitment to the Boston police department in order to perform the additional responsibility of escorting buses between the Bayside Mall staging area and various South Boston public schools. MDCP also provided security for South Boston buildings on evenings and on weekends from October through December.[314/]

314/ Laurence Carpenter, Superintendent, MDCP, interview, May 7, 1975. Early in October 1974, Superintendent Carpenter had suggested to Commissioner John Sears that, with regard to MDCP forces, manpower mobilization in the future take place on two levels. Under normal operating conditions the metropolitan police could provide a riot-trained and equipped force of 30 to 40 men in less than 60 minutes. In addition, a force of 28, also riot-trained and equipped, would be available from the police academy at any time between 8:00 a.m. and 4:00 p.m. Thus, it would be possible to provide 58 to 70 men within a short period of time during the high risk daytime hours. This force could be augmented by backup men, not riot equipped, for other duties if necessary. A more elaborate mobilization plan provided for a standby force of 250 riot-trained and equipped men. This force could, depending on fiscal considerations, either be placed on standby at home and made available within a period of 3 to 4 hours, or it could be placed on duty in Boston and made available within minutes. Such a plan would have required the following steps, all of which involved major cost considerations: (1) cancelling days off; (2) establishing two, 12-hour shifts; (3) shifting manpower to insure proper coverage of MDC jurisdiction. Laurence J. Carpenter, Superintendent of Police, Metropolitan District Commission Police, interoffice correspondence to John W. Sears, Commissioner, Metropolitan District Commission, Oct. 9, 1974.

The number of MDCP officers assigned to desegregation duty fluctuated from 25 officers initially,[315] to 100 officers from October to January.[316] The MDCP 70-member Traffic Oriented Patrol Squad (TOPS), a unit organized to augment MDCP efforts in traffic direction and problems of crowd control, disturbances, and demonstrations, provided general tactical assistance to the Boston police department in connection with school desegregation and replaced the regular MDCP force in April.[317] An additional 50 regular officers were added to the TOPS contingent in May 1975. This force strength was to be maintained until school closed.[318]

The MDCP, like all other supplemental forces, was under the overall control of the Boston police department in fall 1974.

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[315] These 25 officers received orientation and training related to expected busing assignments and locations at the police academy prior to assignment. J. I. O'Brien, Captain, Metropolitan District Commission Police, interoffice correspondence to Laurence Carpenter, Superintendent, Metropolitan District Commission Police, May 12, 1975.

[316] A proposal to reduce the force by 50 in January was rejected by Commissioner diGrazia. Robert J. diGrazia, Commissioner, Boston Police Department, letter to Laurence J. Carpenter, Superintendent, Metropolitan District Police, Jan. 24, 1975.

[317] All officers assigned to school desegregation detail were to be riot-trained and equipped. Carpenter interview.

[318] Ibid.

The department, however, had no direct role in MDCP's discharge of its support responsibilities.[319]

The Massachusetts National Guard

The first organized militia in the colonies was established in Massachusetts in 1636. This militia was the forerunner of the Massachusetts National Guard.

The Massachusetts National Guard has as one of its principal objectives to assist civil authorities in preserving law and order and protecting lives and property.[320] At the State level the Governor, through the Adjutant General, alerts and mobilizes the Army and Air National Guard [321] to active duty. Orders from the President are required to federalize the Guard. In Massachusetts, the Guard's role is 95 percent Federal and 5 percent State.[322] Federal activation supersedes State activation. In the event of State activation, the Guard performs a support function. In the case of Federal activation, the Guard performs a martial law function and would then supplant local law enforcement authority. Before the Guard can be federalized, the Governor must first exhaust all other available resources. The chain of command for the Guard flows from the Governor through the secretary of public safety to the Adjutant General of the Guard.[323]

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[319] Ibid.

[320] Mass. Gen. Laws, Ch. 33. It should be noted that the National Guard has both a Federal and a State mission: The Federal mission pursuant to Section 102, Title 32, United States Code, is as follows: "In accordance with traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times. Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the guard and air forces, the Army National Guard and the Air National Guard of the United States, or such parts of them as are necessary for a balanced force, shall be ordered to active Federal duty and retained as long as so needed."

The State mission is to provide units so organized, trained, and equipped that under competent orders by proper authorities, they will provide for protection of life and property and preserve peace, order, and public safety. Massachusetts National Guard Annual Report, 1974 (hereinafter cited as Guard Report).

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[321] The Guard also has available "special purpose units"--groups of highly trained specialists--which can be activated and deployed to troubled areas on short notice. These units include: (1) the MP Battalion of 300 men (located at Mashpee) which was activated last fall; and (2) the MP Company of 175 men (located at Lexington) which is composed of experienced MP's. Within the total guard structure, there is the specially-trained, 26-member Special Weapons and Tactics (SWAT) team, as well as other specialized armed teams. Ibid., p. 6.

[322] Vahan Vartanian, Major General, Massachusetts National Guard, interviews, April 23 and May 1, 1975.

[323] Guard operations are governed by a written plan--Domestic Emergency Operating Procedures--which requires that every escalation in the use of force must be preceded by a direct order of authorization from the Governor. A recent mandate (April 1975) requires that guardsmen will be issued only riot batons (not rifles) for domestic emergencies unless specifically ordered otherwise by the Governor (Vartanian interview).

The Army National Guard has a total strength of 11,946 military personnel. [324] The Air National Guard has 2,761 military personnel. Of this total complement of 14,707 persons, only 4.1 percent are minorities. [325]

Fall Desegregation Involvement

In October 1974, the National Guard was activiated by the Governor for duty in Boston. Time for and method of deployment of troops was not specified in the executive order, and 500 troops in active duty were placed on standby basis first at armories near the city, then at Camp Curtis Guild [326] where 2,500 troops received 1 week of intensive riot and crowd control training. [327]

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[324] Guard Report, p. 3.

[325] For National Guard purposes, "minority persons" denotes: Black Americans; Spanish-surnamed Americans; American Indians; Asian Americans; and "others"; e.g., Cape Verdeans, Hawaiians. Plan for Affirmative Action and Equal Employment in the Military Division, Commonwealth of Massachusetts, Military Division, Adjutant General's Office, Jan. 16, 1975. The National Guard, like the other State law enforcement agencies previously discussed, has acknowledged that it was operating under employment practices which have discriminated against minorities and women, and has committed itself to taking positive action in the hiring of these groups.

[326] Camp Curtis Guild is a military training camp located 20 miles northeast of Boston. Vartanian interview, p. 3.

[327] Guardsmen, as part of their initial training, receive 16 hours of annual training in crowd and riot control tactics. Ibid.

Although trained in riot and crowd control, the Guard had never previously been tested. The troops were not called into Boston but remained on alert status from October to mid-November. Planning sessions for the fall 1975 desegregation have already begun with the Boston police department and other State law enforcement agencies. The Guard is to receive a 1- to 2-day refresher course on crowd and riot control prior to the September school opening date. [328]

Federal Intervention

On September 30, 1975, Judge Garrity made Mayor Kevin White a defendant in Morgan v. Kerrigan "as to issues concerning the safety and security of the people of the City of Boston as they are affected by the implementation of the court's desegregation order." [329]

One week later, the mayor of Boston informed the Federal district court that although the Boston police "have guaranteed the orderly and safe implementation of the Court-Ordered Plan in 90 percent of the City," in the remaining 10 percent of the city (South Boston), "we can no longer maintain either the appearance or the reality of public safety and the effective implementation of the Plan." 330/ He, therefore, sought the assistance of not less than 125 U. S. marshals "to restore order in South Boston."

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[328] Ibid.

[329] The order also made the mayor a defendant "as to issues concerning the financial aspects of implementation of desegregation." Morgan v. Kerrigan, C. A. No. 72-911-G, Order Joining Kevin H. White, As He Is Mayor, As A Party Defendant, Sept. 30, 1975.

The mayor noted that the city's cost of enforcement for the first 18 days of the school semester had been in excess of $2 million and that the Boston police force and the tactical police force had "strained all its personnel and exhausted every resource available to it." The police were "no longer able to preserve public safety and also ensure the implementation of the Federal Court Order in South Boston." 331/In view

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330/ Kevin H. White, Mayor, City of Boston, Mass., letter to Judge W. Arthur Garrity, Jr., United States District Court, Boston, Mass., Oct. 7, 1974.

331/ Ibid. The Mayor cited steps he had taken to ensure the lawful implementation of the Federal court order in South Boston. These included: (1) providing police escorts for all school buses in and out of South Boston; (2) lining bus routes in South Boston with police officers shoulder-to-shoulder; (3) creating protected staging areas to minimize the number of buses going into certain sections of South Boston; (4) cordoning-off all school buildings in South Boston with uniformed police officers; (5) stationing plainclothes policemen in the schools themselves; (6) refusing parade permits in South Boston when, in the opinion of the police, public safety would be endangered; (7) restricting demonstrations which threaten the safety of school children; (8) preventing any assembly of three or more persons within the vicinity of all school buildings in South Boston; (9) closing down, until further notice, taverns and package stores in South Boston; and (10) making a total of 41 arrests in South Boston (40 percent of all arrests made in the entire city in an area comprising only 7 percent of the city's population).

of the dangerous situation, the mayor felt it essential that the police "be assisted and augmented by outside force...." 332/

The Department of Justice issued a memorandum in opposition to Mayor White's motion for U. S. marshals, stating that "the circumstances at the present time do not justify the intervention of national law enforcement officials in what is essentially a local law enforcement problem." 333/ Justice referred to past situations in which U. S. marshals had been used to enforce school desegregation orders, and observed that prior to requesting Federal assistance, State and local authorities have always been required by the courts to first comply with their duties to enforce the court order. "Those cases in which United States marshals were involved demonstrate situations in which not only

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332/ Ibid.

333/ Memorandum for United States Responding to Motion for Relief Concerning Law Enforcement, at 1, Morgan v. Hennigan, 379 F. Supp. 410 (1974) (hereinafter cited as Justice memo). Justice's memo suggests that authority to use U. S. marshals to enforce court school desegregation decrees resides in the Attorney General.

have (1) local and State officials failed to enforce a court order, but (2) they have actively opposed its requirements." 334/

The Department found that neither of those contingencies were present in Boston and that local and State law enforcement resources, all of which had not been used, were adequate to deal with the situation. 335/ In response to the Justice Department's position in denying the mayor's motion for Federal intervention, the Federal district court ordered the mayor to

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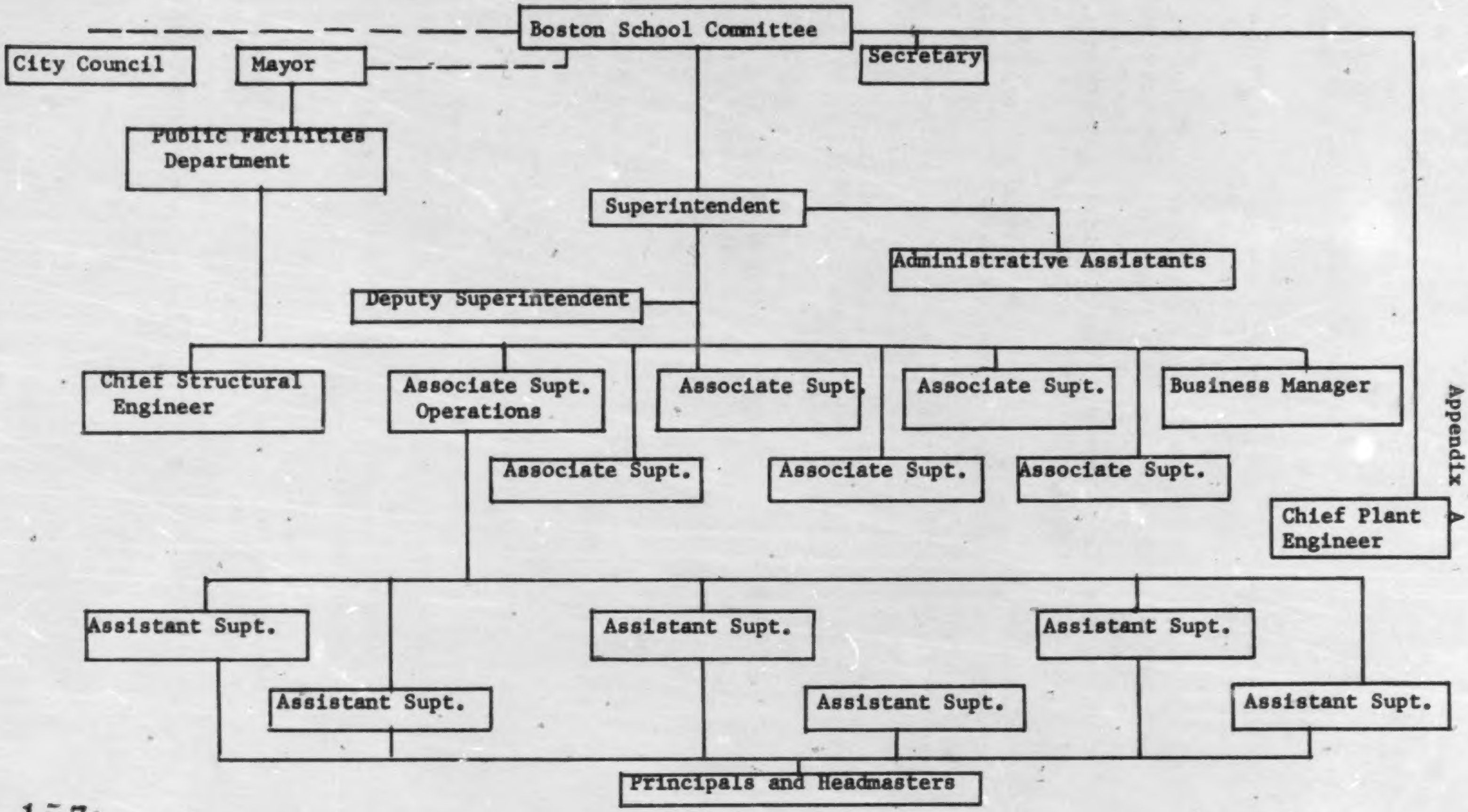
334/ Ibid. These cases included Aaron v. Cooper, 257 F. 2d 33 (1958), in which United States troops and marshals were used in Little Rock, Arkansas because of the active opposition of the Governor and other State officials to the court's desegregation order; Re McShane's Petition, 235 F. Supp. 262 (1964), in which supervision by United States marshals was provided when State officials were unwilling to execute and enforce desegregation orders entered by a United States district court. This case involved incidents following the enrollment of James H. Meredith, a black man, at the University of Mississippi; and William v. Wallace, 240 F. Supp. 100 (1965), which illustrates the usual approach taken by Federal courts where State officials threaten to interfere with the exercise of constitutional rights. There, the Governor and other officials of the State of Alabama were not only enjoined from interfering with a civil rights march from Selma to Montgomery, Alabama, but the State was required to affirmatively provide protection to the marchers. Justice memo, pp. 2-3.

335/ Ibid. Federal statutes (10 U.S.C. sec. 331-334) appear to limit Federal military intervention in the States to three specific situations: (1) that a situation of serious "domestic violence" exists within the State; (2) that such violence cannot be brought under control by law enforcement agencies available to the Governor, including local and State police forces and the National Guard; and (3) that the legislature or the Governor requests the President to employ the armed forces to bring the violence under control. The element of request by the Governor of a State is essential if the legislature cannot be convened. Robert Kennedy, Attorney General of the United States, letter to all State Governors, Aug. 7, 1967.

request the Governor to send for additional police assistance.[336/] The Governor responded by dispatching the Massachusetts State Police and the Massachusetts District Commission Police into Boston.

[336/] Morgan v. Kerrigan, C. A. No. 72-911-G, Order of Oct. 9, 1974.

Institutional Hierarchy of Boston's Educational System*


Boston School Committee
City Council
Mayor
Secretary
Public Facilities Department
Superintendent
Administrative Assistants
Deputy Superintendent
Chief Structural Engineer
Associate Supt. Operations
Associate Supt.
Associate Supt.
Business Manager
Associate Supt.
Associate Supt.
Associate Supt.
Chief Plant Engineer
Assistant Supt.
Assistant Supt.
Assistant Supt.
Assistant Supt.
Assistant Supt.
Assistant Supt.
Principals and Headmasters

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* From Peat, Marwick, Mitchell & Co., Management Study of the General Administration Part I, Aug. 1974.

Appendix B

Legal Developments During Phase I

6/26/74--State legislative representative from South Boston, Ray Flynn, denied right to intervene in the court case.

7/12/74--Early in proceedings Boston Teachers Union motion to intervene denied without prejudice to renew should proceedings reach remedy stage. Motions of BTU and Boston Association of School Administrators and Supervisors to intervene granted, restricted to issues affecting contract rights.

7/31/74--Order on Faculty Desegregation. Assignment of fulltime black teachers to reflect citywide proportion of black teachers at that level of instruction. No transfer permitted that would increase either segregation or experience imbalance in black schools.

7/31/74--Order on Faculty Hiring for September 1974.

a. 280 new permanent teachers to be hired--one black for one white until every qualified black applicant has been offered employment. Qualified means having a Massachusetts certificate or appearing on the school department eligible list.

b. Provisional teachers to be hired on same basis. Provisional defined as having taught 1973-1974, as permanent; or school department eligible list; graduate of accredited college.

c. No school required to hire any black teacher rated as unsatisfactory at end of 1973-1974 academic year.

d. Three black recruiters to be paid out of school committee reallocation.

8/28/74--School department prohibited from reassigning nine black teachers from Trotter elementary school.

8/28/74--Vocational Education. City defendants ordered to offer places at Brighton and Charlestown to blacks and other minorities on waiting list, to fill vacancies in other vocational programs with minorities where possible, and recruit minorities for a waiting list ranked by order of application or number of absences.

9/10/74--Declaratory memorandum on peaceful desegregation. Response to Boston Police Patrolmen's Association affirming police authority in specific instances.

9/30/74--Order joining Kevin White, as Mayor, as party defendant, for specific purposes of his responsibilities for safety and security and for financial assistance through departments responsible for implementing court's desegregation orders.

10/04/74--Order establishing racial-ethnic councils and CPAC (Citywide Parents' Advisory Council).

10/04/74--Kevin White ordered to use authority to get law enforcement assistance from other communities and State police; if necessary to seek further assistance from Governor (National Guard).

10/31/74--Final order requiring Boston School Committee to file student desegregation plan by December 16, 1974, for implementation in September 1975; required contents detailed.

11/01/74--Massachusetts Citizens Against Forced Busing denied intervention.

12/16/74--Education planning center plan presented by school committee lawyers to meet court-ordered deadline for submission. School committee neither approved nor opposed plan but refused to submit.

12/17/74--Court order of 10/9 to Kevin White reaffirmed with

a. Further requirement for daily report on how many and what kind of law enforcement personnel in South Boston High School.

b. All unauthorized personnel excluded from South Boston and Roxbury High School.

c. No more than three persons, no loud noise within 100 yards of school buildings in South Boston between 7 a.m. - 4 p.m.; 50-yard limit for other Boston public schools.

d. Racial epithets by students forbidden in school buildings.

e. Alternative sites to be determined in case necessary to close South Boston High School, L Street, and Hart-Dean buildings.

12/30/74--Boston School Committee members Kerrigan, McDonough, and Ellison held charged with civil contempt for noncompliance with court order to submit student desegregation plan by December 16.

1/06/75--City defendants motion for immediate report on all safety measures is denied. Court states no guarantee can be given for complete safety but court is satisfied that "Mayor and all other officers are clearly taking every lawful precaution."

1/08/75--Order purging three school committee members of civil contempt if student desegregation plan is submitted by January 20, the date set in 10/31. Final order for submission of amended plan.

1/15/75--Timetable set for submission of desegregation plans:

1/20--all plans from any group
1/27--school committee plan

1/31/75--Order appointing experts to design desegregation plan: Robert A. Dentler, Dean, School of Education, Boston University, $200 per day.

Marvin B. Scott, Associate Dean, School of Education, Boston University, $100 per day.

2/07/75--Appointment of Masters to hold hearings on various desegregation plans submitted to court.

Jacob J. Speigel, Presiding Master
Francis Keppel
Edward J. McCormack
Charles V. Willie

2/25/75--Order for census of Hispanic students.

3/12/75--Temporary restraining order. Three examination schools prohibited from offering early admissions pending issuance of final desegregation plan.

3/14/75--School committee attempts to remove Dentler, disqualifying McCormack for alleged conflict of interest based on NAACP membership; denied without hearing.

3/31/75--Report of the Masters made public.

4/02/75--Court sets date for filing objections to Masters Plan: 4/7.

4/15/75--Ad hoc committee established to refine college and university involvement under the plan.

4/17/75--Court issues draft revisions of Masters Plan.

4/18/75--City defendants ordered to permit appropriate school personnel to meet with representatives of paired institutions.

4/28/75--City defendants ordered to compile data on examination schools, for 7th and 9th grades, by race, residence, and test scores.

5/14/75--Rita Graul and Virginia Sheehy, executive board members of ROAR, ordered to give depositions concerning ROAR's connection with community demonstration at South Boston High School.

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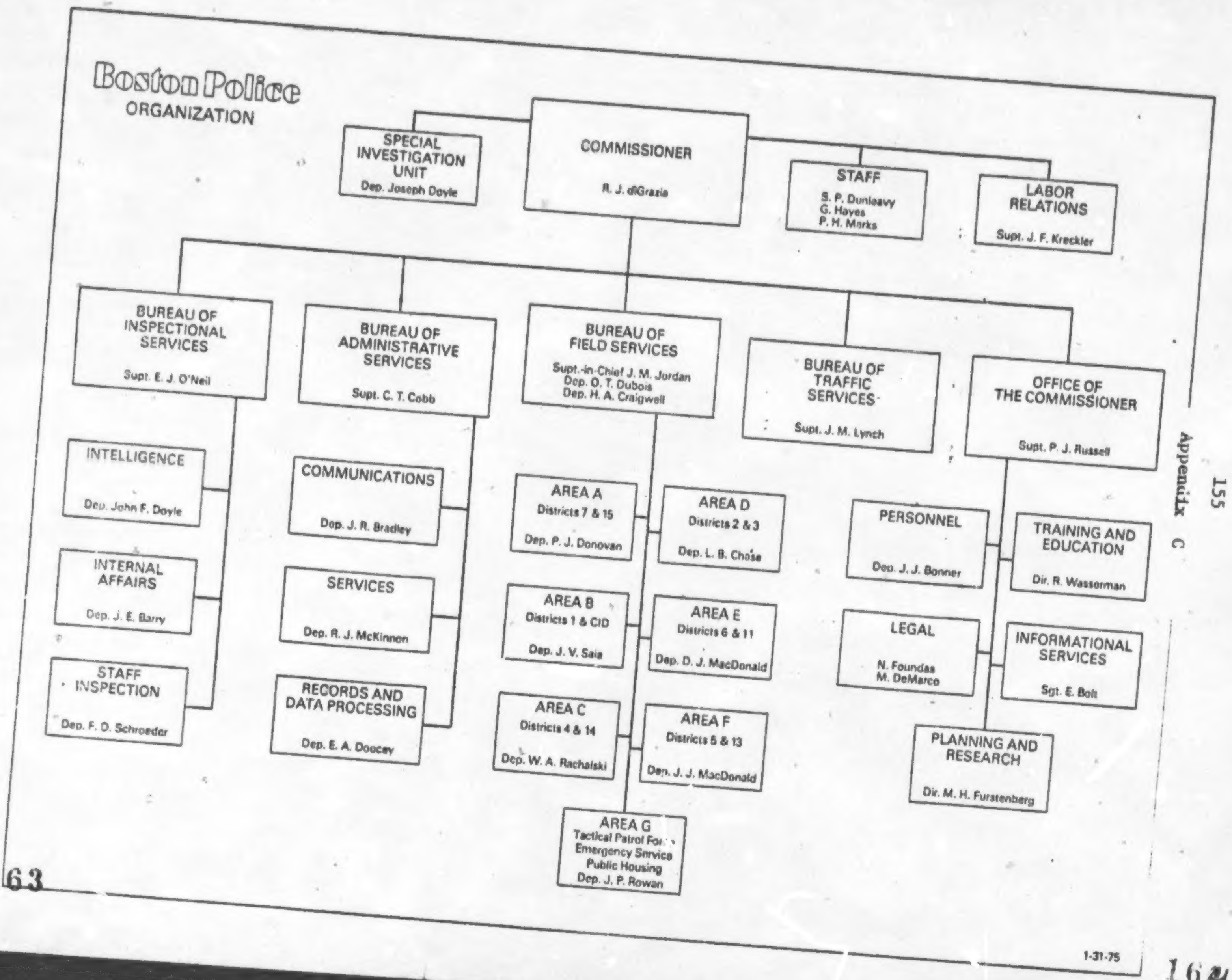
Boston Police
ORGANIZATION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